

Clarke, Victoria

From: Fox, Radhika
Sent: Wednesday, March 24, 2021 10:18 PM
To: Clarke, Victoria
Cc: Fugh, Justina
Subject: CONFIDENTIAL - Thinking Through (b) (6) - More Follow Up Questions

Hi Victoria – First, please let me apologize for the delay in responding to this. (b) (6)

(b) (6) I have provided responses below – and thank you for your patience and gentle nudging to complete. Also, please note that I am copying Justina on some of this as I spoke to Dan Utech and he was checking in on the status of me getting my stuff in and I think (I may be wrong) they may have chatted. If I am wrong, always good for Justina to be in the know. Thanks! Radhika

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Tuesday, March 16, 2021 1:09 PM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Subject: Thinking Through (b) (6) - More Follow Up Questions

Hi Radhika,

(b) (3) (A), (b) (5), (b) (6)

I (b) (6)

(b) (6)

(b) (6)

I (b) (6)

[REDACTED]

[REDACTED]

[REDACTED]

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

Clarke, Victoria

From: Clarke, Victoria
Sent: Thursday, April 29, 2021 12:50 PM
To: Fox, Radhika
Subject: RE: Confirmation on Sales

That's perfect, Radhika. (b) (3) (A), (b) (5)

As for timing of the month, you have 30 days from receiving notice – but no later than 45 days from the actual date of the sale – to file your 278-T. I'm not sure the frequency on which the financial statements come in – whether they're always due to arrive on the 30th or 31st, or if they arrive on the 15th of the month, or even at the start of the month to show what happened in the previous month. Each financial institution is different in that regard. Provided you're reporting within the month that the transaction occurred, you shouldn't be late. So if you wanted to just arbitrarily pick the 30th of each month as when you file a 278-T, you can do that.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel | Ethics Office
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Thursday, April 29, 2021 12:46 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Confirmation on Sales

(b) (6)

(b) (3) (A), (b) (6)

Is there a set day of the month that I should fill this out? I am going to put it in my personal calendar to do so. Radhika

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Thursday, April 29, 2021 9:43 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Subject: RE: Confirmation on Sales

Super! (b) (3) (A), (b) (6)

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency

Office of General Counsel | Ethics Office
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Thursday, April 29, 2021 12:40 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Confirmation on Sales

Please see below!

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Wednesday, April 28, 2021 6:38 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Subject: Confirmation on Sales

Hi Radhika,

(b) (3) (A), (b) (5), (b) (6)

[Redacted]

[Redacted]

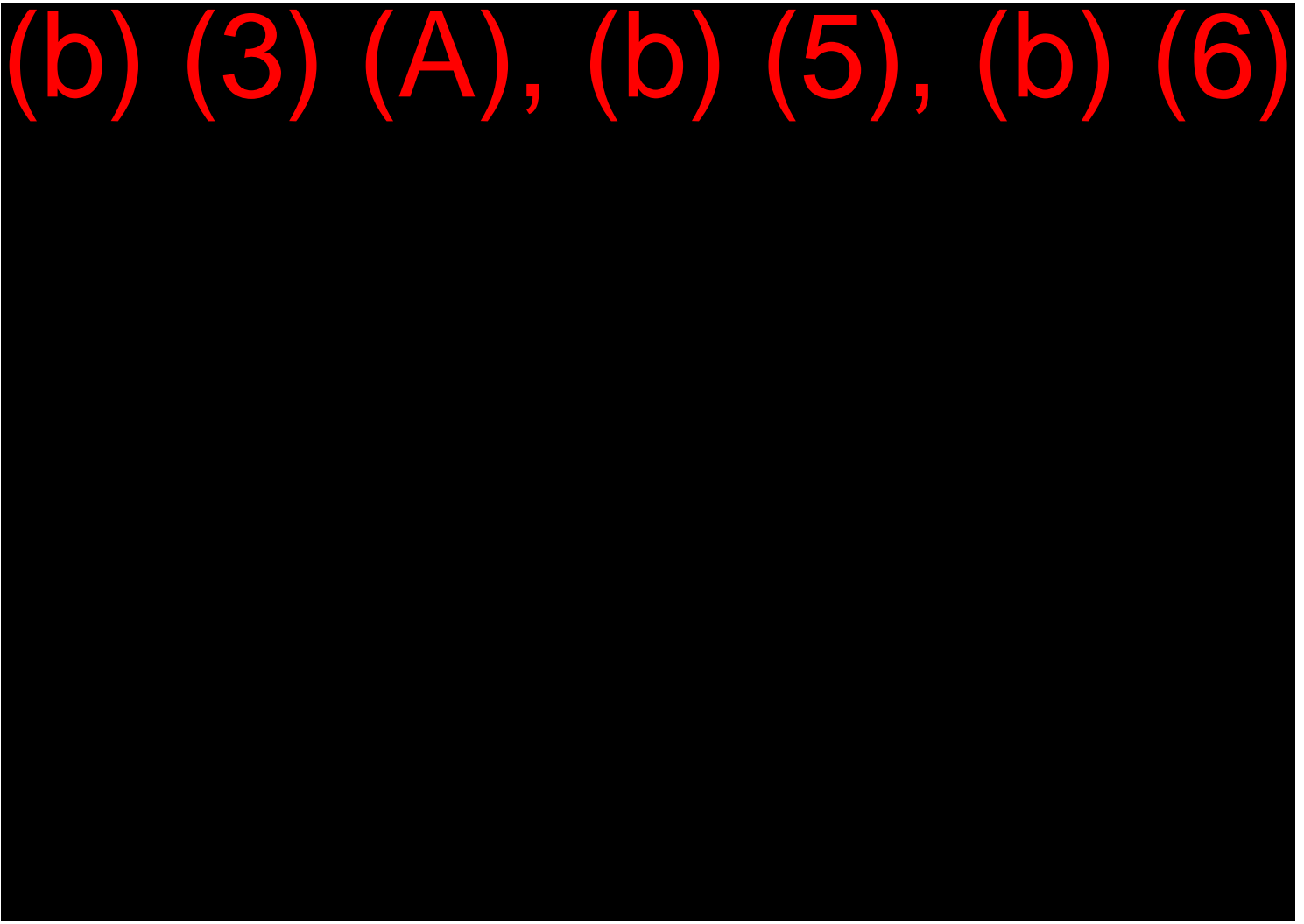
[Redacted]

[Redacted]

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(b) (3) (A), (b) (5), (b) (6)

(b) (3) (A), (b) (5), (b) (6)



Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel | Ethics Office
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

Clarke, Victoria

From: Fugh, Justina
Sent: Tuesday, March 09, 2021 9:06 AM
To: Clarke, Victoria; Fox, Radhika
Subject: RE: documents

Hi Radhika,

To the extent that any ethics issues come up, here are some notes for you:

(b) (5), (b) (6)

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, March 08, 2021 5:11 PM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: documents

Hi Radhika,

(b) (5)

Sent from my iPhone

On Mar 8, 2021, at 4:49 PM, Fox, Radhika <Fox.Radhika@epa.gov> wrote:

Victoria: (b) (5)

thanks

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, March 8, 2021 12:43 PM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: documents

Yes, you can send them to both of us. Certainly send them to me.

(b) (5)

(b) (5), (b) (6)

've gone ahead and attached both documents, so you can get a preview of what we'll need to discuss.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Sunday, March 07, 2021 10:56 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: documents

Thanks for all your help Victoria (and Justina). I have copies of the (b) (6)
Should I send these documents to the both of you? Or what is best.

(b) (5)

Radhika

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Friday, March 5, 2021 9:58 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Victoria/Radhika

Hi Radhika!

Today was a very, very productive call and it was so nice to get a sense of what the Office of Water handles and the likely areas that you will need to recuse from.

Here are some of the matters of general applicability that you're likely to work on, along with any associated regulated entities:

- The Lead and Copper Rule – the regulated entities are likely to be drinking water utilities.
- Effluent limitations guidelines – the regulated entities likely to be the meat and poultry and industry because of their nutrient discharge criteria
- The Steam Electric Rule – the regulated entities are likely power plants (upstream and downstream oil and gas)
- Wastewater treatment plans – most of which are owned by municipalities, though there are some private companies

At the AA level, you're unlikely to work on many specific party matters, though there may be instances where you will have to review WIFIA loans prior to providing them to the Administrator. These do implicate municipalities.

With that in mind, I took another look at your asset chart and made some changes. (b) (5), (b) (6)

[REDACTED]

All that said though, you STILL have recusal obligations with respect to your other holdings, it is simply that they're unlikely to create a financial conflict of interest for you.

I hope you're feeling a little more at ease, and if you have any questions or need anything else, don't hesitate to reach out.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Clarke, Victoria
Sent: Thursday, March 04, 2021 12:21 PM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Victoria/Radhika

Hi Radhika!

It was lovely to speak with you this morning (b) (5)

I'm going to summarize our meeting today, first by going over your immediate areas of recusal, our meeting with Benita tomorrow, a path forward with respect to your holdings, and then the last section will be some homework for you to help "fill in the blanks" in your 278.

Recusal Obligations

With respect to your financial conflicts of interest – both for specific party matters (litigations, contracts, grants) and matters of general applicability (policy decisions and rulemakings), I've gone ahead and looked at all of the assets that you provided in Part 6 and done the initial sector and industry analysis. Even though I am attaching the spreadsheet we looked at today, I've made a "simplified" chart of what you need to recuse from, based on your holdings. This recusal chart will help you navigate what you can and cannot work on. The chart is broad – it covers both companies and sectors that will be unlikely to appear before you (e.g., Amazon and internet retail), as well as those companies and sectors that will (Chevron & upstream oil and gas). You're on notice now of what your financial conflicts of interest are – so make sure you are recusing!

Likely Areas of Conflict

It has been awhile since we've had to do any conflicts analysis in the Office of Water. So, to get a better understanding of what are the likely areas of conflict you will face in the job, you've arranged a meeting for us with Benita tomorrow. During the meeting, I don't intend for us to go line by line into your holdings. Rather, I want to think more globally about your duties and responsibilities in the Office of Water. With Benita's insights, we can get a sense of where the pitfalls are. (b) (5)

Justina will be joining us as an extra pair of ears, so I've forwarded the invitation along to her.

Divestiture

(b) (5) However, you do not have to wait to divest. Currently, you're the Acting Assistant Administrator for Water. You have the opportunity to divest of assets that are likely to cause a conflict of interest in this position prior to your nomination and confirmation. The process that we use for this is the Certificate of Divestiture ("CD"). We work with the Office of Government Ethics to get you a "CD" so that when you sell the assets that are going to cause a conflict of interest, you will not incur a capital gain.

Here are where you have assets, the type of account, and if you can receive a CD for any assets creating a conflict of interest within the account:

(b) (3) (A), (b) (5), (b) (6)

(b) (3) (A), (b) (5), (b) (6)

You can receive a CD for any assets in (b) (6) that are likely to cause a conflict of interest, and we will check with OGE to see if your circumstances permit (b) (6) to receive a CD, too. As part of their consideration, OGE will need to see (b) (6) so to the extent you can get a copy of that and provide that to me, that would be great. You will not be able to receive a CD for any assets held in a retirement account, or that are in the (b) (5), (b) (6)

Now, before we can submit a CD, we will need to complete your New Entrant Report (b) (5)

In the attached spreadsheet, I've already flagged where the conflicts in your holdings are likely to be. However, the discussion that we'll have with Benita tomorrow will help us crystallize what you need to divest of in order to work in the Office of Water unhindered.

Further Information From You

I have a little bit of homework for you.

(b) (3) (A), (b) (5), (b) (6)

This is a good starting point for us now. Thank you for being flexible and working with us! There is sure to be more in the coming days as OGE reaches out with its own sets of questions, and I will be in touch. If you have any questions, don't hesitate to reach out.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Clarke, Victoria
Sent: Thursday, March 04, 2021 9:07 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Subject: RE: Victoria/Radhika

Sure thing.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Thursday, March 04, 2021 9:07 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Victoria/Radhika

How about you hang up and I call you in 10 minutes. 915 or so? Sorry.

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Thursday, March 4, 2021 6:04 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Subject: RE: Victoria/Radhika

No problem.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Thursday, March 04, 2021 9:03 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Victoria/Radhika

Sorry I'm on the phone and running late. Be there soon. Very sorry

-----Original Appointment-----

From: Fox, Radhika
Sent: Wednesday, March 3, 2021 8:17 AM
To: Fox, Radhika; Clarke, Victoria
Subject: Victoria/Radhika
When: Thursday, March 4, 2021 6:00 AM-6:45 AM (UTC-08:00) Pacific Time (US & Canada).
Where: Microsoft Teams Meeting

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

(b) (6) [REDACTED] United States, Washington DC

Phone Conference ID: [REDACTED]

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Clarke, Victoria

From: Fox, Radhika
Sent: Tuesday, April 06, 2021 10:57 PM
To: Clarke, Victoria
Cc: Fugh, Justina
Subject: RE: Decision Trees

Thanks Victoria: I shared this with (b) (6) and will be back in touch shortly. We may have some clarifying questions, so may need a follow up discussion. Thanks again for laying this out and all the work it took.

I also wanted to summarize (b) (6)

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Tuesday, April 6, 2021 9:40 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Decision Trees

Hi Radhika,

These are the decision trees we discussed at today's meeting, along with the assets that we've identified as problematic in each account's holdings.

(b) (6)

Also, since you asked for this previously, I wanted to provide you with a quick recap of the Transaction Reporting Requirements:

- With respect to selling assets to avoid conflicts of interest, you need to file a 278-T for the sale of an asset over \$1000 that was distributed to you from the:
 - o (b) (6)
- With respect to reporting on a monthly basis, you need to file a 278-T for any sale, purchase, or exchange of stocks or bonds (NOT mutual funds) over \$1000 in your:

- o (b) (6)

- On your annual report in Part 7, you will need to account for any purchase, sale or exchange of any stocks, bonds, or mutual funds over \$1000 in your:
 - o (b) (6)
- On your annual report, you will also need to make sure that you are adding and deleting entries to Part 2 (employment arrangements, (b) (6)), and Part 6 ((b) (6)) to reflect their holdings at the end of the reporting period.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

Clarke, Victoria




From: Fugh, Justina
Sent: Friday, March 26, 2021 10:07 AM
To: Clarke, Victoria
Subject: RE: Divestiture Next Steps

(b) (5)



From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Friday, March 26, 2021 9:51 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Divestiture Next Steps

(b) (5), (b) (6)

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Friday, March 26, 2021 12:35 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Divestiture Next Steps

Hi,

(b) (5)





Justina

From: Clarke, Victoria <clarke.victoria@epa.gov>


Sent: Thursday, March 25, 2021 10:26 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: FW: Divestiture Next Steps

I have a call with Elaine Newton at OGE around 3 PM today to talk about the CD options, including matters related to the timing of the CD. If you want to join, you're more than welcome to do so.

(b) (5), (b) (6)

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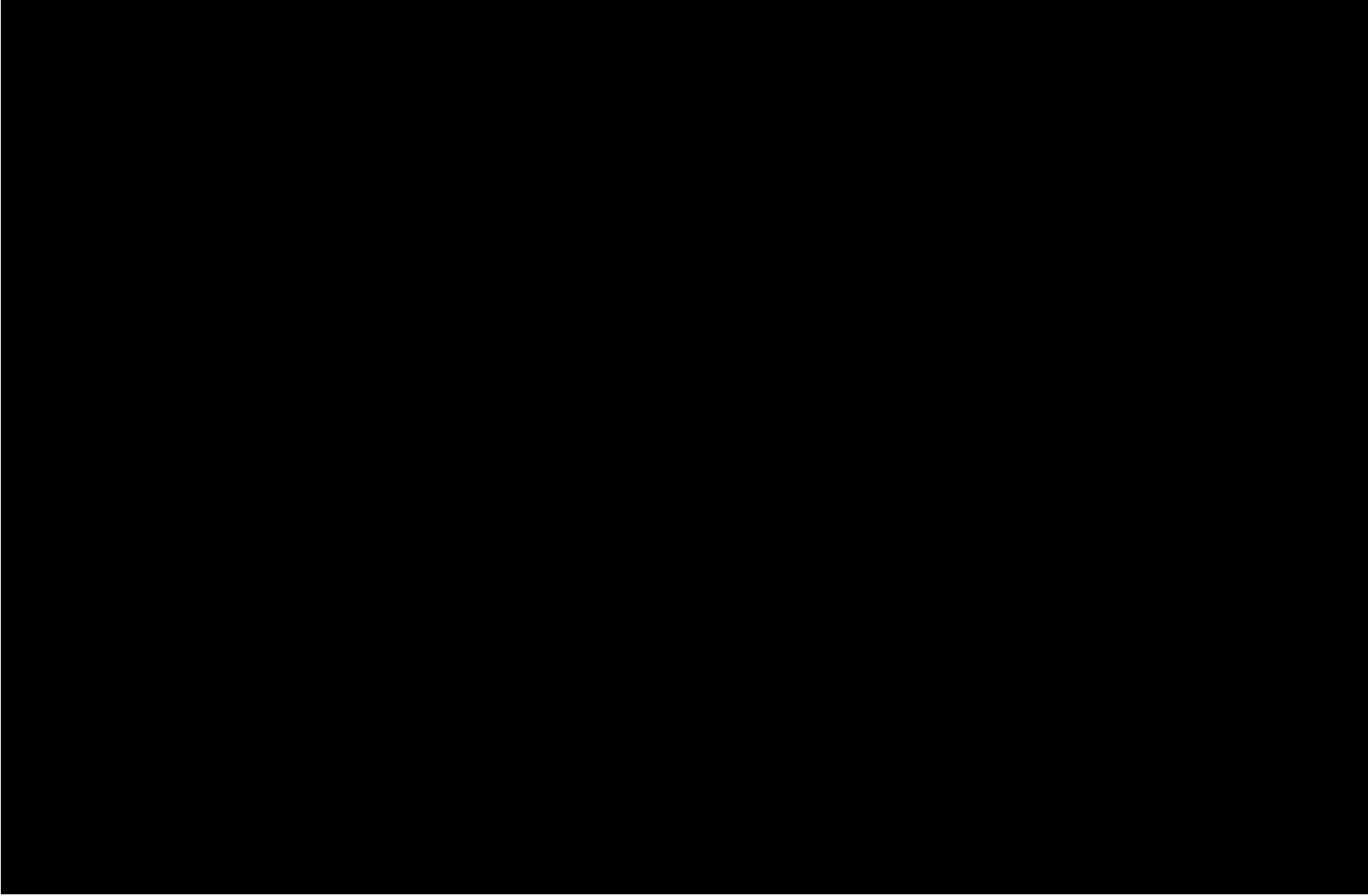
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(b) (3) (A), (b) (6)

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(b) (3) (A), (b) (6)



Once I finish with OGE, I'm more than happy to talk to Radhika ((b) (6)) and explain the process.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Wednesday, March 24, 2021 10:43 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Divestiture Next Steps

Hi Victoria: (b) (5), (b) (6)

[REDACTED]
[REDACTED] If so I apologize and can compile if you remind me what they are).

I did speak with (b) (6) this evening and wanted to convey to you and Justina where we landed:

- If it makes sense to get on the phone with you/Justina/OGE to talk through any of this, that would be great. And it might be easier.

- (b) (5), (b) (6)

| [REDACTED]

| [REDACTED]

Let me know if you, Justina and I should hop on the phone and discuss. Happy to!

Thanks! Radhika

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Friday, March 12, 2021 8:26 PM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Divestiture Next Steps

Hi Radhika!

So nice to speak with you not once, but twice this evening! (b) (6)

[REDACTED]

[REDACTED]

| [REDACTED]
| [REDACTED]
| [REDACTED]

- (b) (6)
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Now, remember – these are just the items that we flagged that, based on what’s in the Office of Water, could be problematic for you. That doesn’t mean you have to divest of these assets, particularly where recusal is appropriate (e.g., Walt Disney) or the ownership value of the asset is below the regulatory threshold.

(b) (5), (b) (6)
[Redacted]

(b) (5), (b) (6)
[Redacted]

I did say this would be a process, but boy, I didn’t realize what a process this quite literally would be! Thanks for sticking in there with us and we will continue to be in touch.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

Clarke, Victoria

From: Clarke, Victoria
Sent: Wednesday, March 03, 2021 11:19 AM
To: Fox, Radhika
Subject: RE: Meeting to discuss recusal obligations based on financial holdings

Yes, that absolutely works. I should have a document prepared for you by that time that can help inform our discussion, too.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Wednesday, March 03, 2021 11:18 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Meeting to discuss recusal obligations based on financial holdings

Hi Victoria – I can meet at 6am pacific time/9am est. would that work? I just sent a meeting request. Let me know, and thank you! Radhika

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Wednesday, March 3, 2021 7:54 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Subject: Meeting to discuss recusal obligations based on financial holdings

Hi Radhika,

Now that you've submitted your New Entrant Report (and Nominee Report!) to us, I've had the opportunity to take a full look at the scope of all of your holdings. You have (b) (6) -- and we need to meet to discuss your recusal obligations ASAP, as well as some paths forward for you to avoid conflicts of interest. Can you make some room on your calendar for me tomorrow for us to do that? (b) (6)

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

Clarke, Victoria

From: Fox, Radhika
Sent: Sunday, March 28, 2021 4:20 PM
To: Clarke, Victoria
Subject: RE: New Entrant Report

(b) (6) What is the deadline?

Also, I may need to call you with questions as I work on this. Thank you, Radhika

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Thursday, March 25, 2021 8:14 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Subject: RE: New Entrant Report

(b) (6)

I'm not sure who has requested the new entrant report. Anyone in the public can request public financial disclosure reports from the Agency with an OGE 201 request. We usually get them from news media periodically over the course of the administration, and they ask for a battery of people's public financial disclosure reports. So, it isn't anything out of the ordinary.

(b) (5)

But right now, the press is for your new entrant report to get completed (or as near to as possible) so we don't miss our 30-day deadline (because if we do, we can get sued). We don't want to release your report when it is incomplete or incorrect, but if we hit the 30-day deadline, we likely will have to. We also need a completed new entrant report to get you a CD. So, it is important that this gets done.

There's still information that I need from you in order to complete your nominee and your new entrant reports. Most of it is on your to-do list from when we first started this process, so hopefully there are no surprises.

(b) (3) (A), (b) (5), (b) (6)

(b) (3) (A), (b) (5), (b) (6)

I've gone ahead and attached the most up to date version of your 278 for you to work with.

If you have any questions, let me know.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Wednesday, March 24, 2021 10:45 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: New Entrant Report

Hi Victoria – my apologies! I haven't had a chance to look yet but I can do so in the coming days. May I ask who has requested the new entrant report?

What is the timeline for me getting this done? (b) (5)

Radhika

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Thursday, March 18, 2021 12:45 PM
To: Fox, Radhika <Fox.Radhika@epa.gov>
Subject: New Entrant Report

Hi Radhika,

Because we have a public request for your New Entrant Report and we may want to get you a CD for certain ownership interests, I want to make sure that you have a New Entrant Report (b) (5)

Victoria

Victoria Clarke
Attorney-Advisor

U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

Clarke, Victoria

From: Clarke, Victoria
Sent: Wednesday, April 28, 2021 1:24 PM
To: Fox, Radhika; Fugh, Justina
Subject: RE: OGE Questions & Check-In

Hi Radhika,

I've submitted our answers to OGE and we'll let you know how it progresses.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel | Ethics Office
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Clarke, Victoria
Sent: Wednesday, April 28, 2021 11:01 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: OGE Questions & Check-In

That would work perfectly for me, if Justina is also amenable!

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel | Ethics Office
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Wednesday, April 28, 2021 11:00 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: OGE Questions & Check-In

If it would help to meet earlier – I can move things to do something in the 12-1 est window

-----Original Appointment-----

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Wednesday, April 28, 2021 7:41 AM
To: Fox, Radhika; Fugh, Justina
Subject: OGE Questions & Check-In
When: Wednesday, April 28, 2021 5:30 PM-6:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

This looked to be the earliest time on our calendars today to meet to discuss where we are and OGE's second round of questions and conflicts analysis.

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

(b) (6) United States, Washington DC

Phone Conference (b) (6)

[Find a local number](#) | [Reset PIN](#)

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Clarke, Victoria

From: Fugh, Justina
Sent: Monday, March 15, 2021 5:01 PM
To: Clarke, Victoria
Subject: RE: Radhika's Assets

Hi,

Sorry, my day was packed today. Weird. I'm free now if you want to call. (b) (5)

Justina

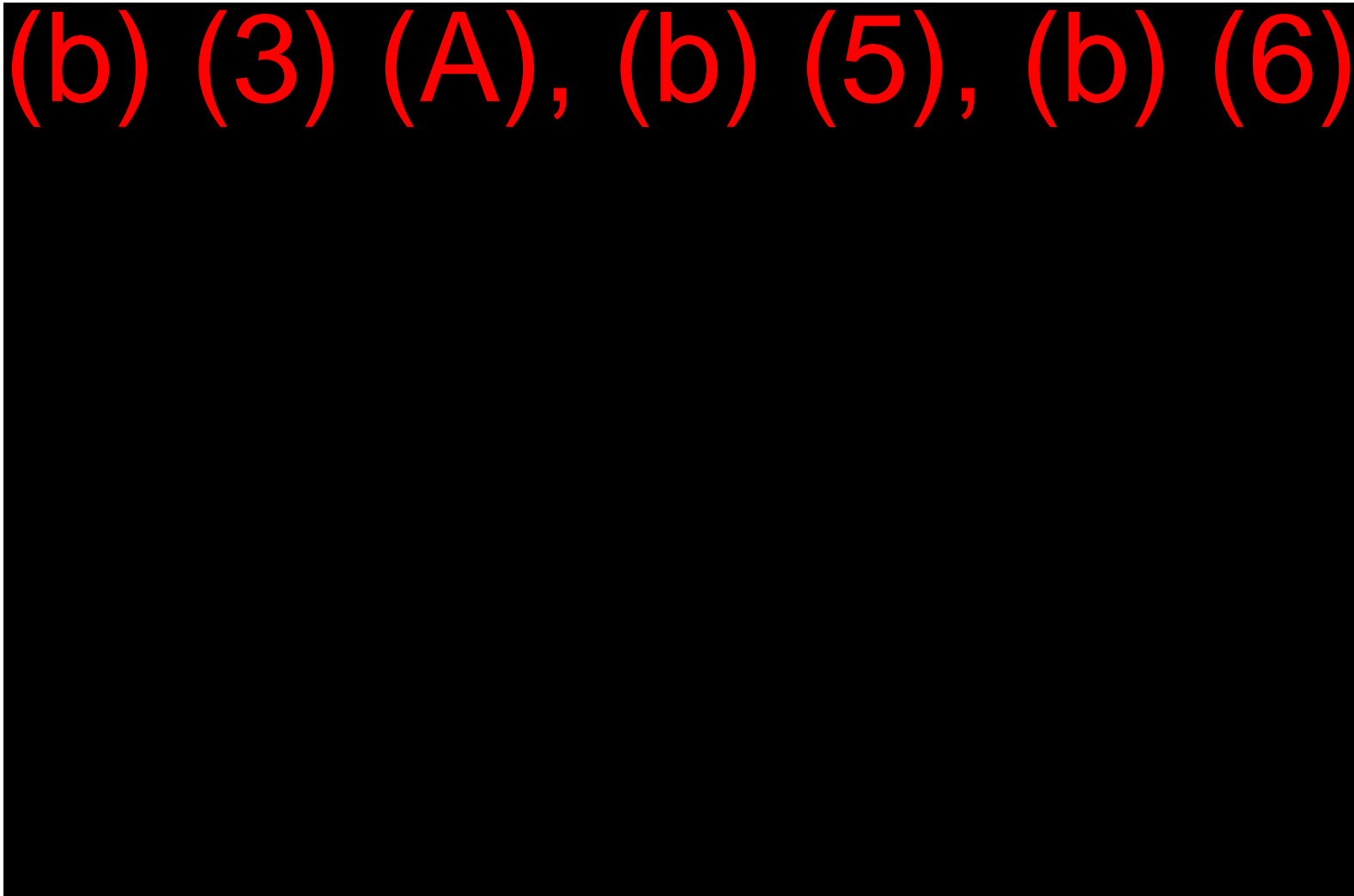
From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, March 15, 2021 1:20 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Radhika's Assets

Hi Justina,

(b) (5), (b) (6)

(b) (3) (A), (b) (5), (b) (6)

(b) (3) (A), (b) (5), (b) (6)



Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

Clarke, Victoria

From: Fox, Radhika
Sent: Friday, April 02, 2021 7:23 PM
To: Clarke, Victoria
Cc: Fugh, Justina
Subject: Re: Setting up a meeting to discuss next steps?

Thanks Victoria. I just sent an invite for Tuesday during a window that seems available to you and Justina. Let me know.

I am close on finalizing the missing information for the 278 and will have that you by Sunday night

On Apr 2, 2021, at 9:08 AM, Clarke, Victoria <clarke.victoria@epa.gov> wrote:

Hi Radhika!

Justina and I have been working away on your options paper, and given just how *dense* and complex it is, we thought it would be a good idea to sit down with you and talk you through it. Are you available later on Monday afternoon or sometime on Tuesday to discuss? Let me know when your availability is, and I'll happily schedule a time for us all to talk.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

Clarke, Victoria

From: Fugh, Justina
Sent: Wednesday, April 14, 2021 10:38 PM
To: Clarke, Victoria
Subject: RE: request for CD

Hi –

(b) (5) ... see my notes.

JF

(b) (3) (A), (b) (5), (b) (6)

(b) (5), (b) (6)

(b) (5), (b) (6)

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Wednesday, April 14, 2021 1:51 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: request for CD

(b) (3) (A), (b) (5), (b) (6)

(b) (5)

Victoria Clarke
Attorney-Advisor

U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Clarke, Victoria
Sent: Tuesday, April 13, 2021 6:41 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: request for CD

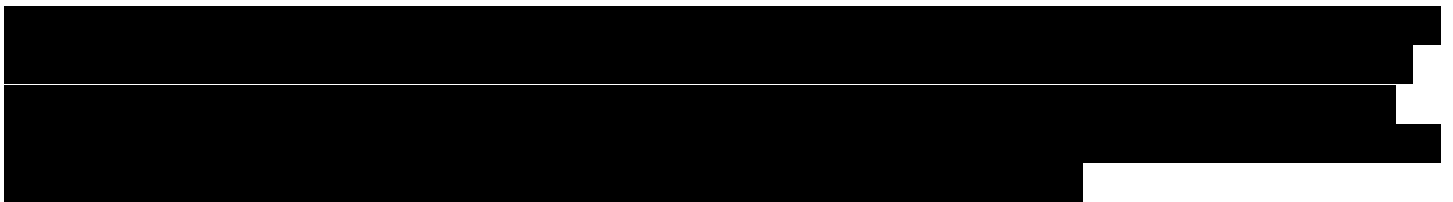
(b) (5)

A large rectangular area of the email body is completely redacted with a solid black box.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Tuesday, April 13, 2021 5:55 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: request for CD

(b) (5)

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Good luck!

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Tuesday, April 13, 2021 4:31 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: request for CD

(b) (5)

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika >
Sent: Tuesday, April 13, 2021 4:11 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: request for CD

Dear Victoria:

I hope this email finds you well. I have spoken with (b) (6) on the assets that were identified as conflicts of interest through your analysis (b) (5), (b) (6)

(b) (5), (b) (6)

(b) (5), (b) (6)

(b) (5), (b) (6)

(b) (5), (b) (6)

Thank you,
Radhika

Clarke, Victoria

From: Clarke, Victoria
Sent: Thursday, April 08, 2021 11:04 AM
To: Fox, Radhika; Fugh, Justina
Subject: RE:
Attachments: RF Decision Trees - mark ups 4.8.21.docx

Hi Radhika,

Attached is the copy of the decision trees with note from our meeting, along with the additional threshold guidance for (b) (6)

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Thursday, April 08, 2021 9:34 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject:

Radhika Fox
Acting Assistant Administrator
Office of Water
U.S. Environmental Protection Agency
Fox.Radhika@epa.gov

Clarke, Victoria

From: Fugh, Justina
Sent: Tuesday, April 20, 2021 10:27 PM
To: Fox, Radhika; Clarke, Victoria
Subject: good call by Radha!

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Tuesday, April 20, 2021 10:08 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: I've thought more about the answer to potential COI #2

Thanks to you both for the feedback. I spoke to Radha Adhar who is managing the confirmation process (b) (5)

[REDACTED]

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, April 19, 2021 6:36 AM
To: Fox, Radhika <Fox.Radhika@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: I've thought more about the answer to potential COI #2

Hi Radhika (b) (5), (b) (6)

[REDACTED]

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Monday, April 19, 2021 9:33 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: I've thought more about the answer to potential COI #2

Hi Justina –

(b) (5)

[REDACTED]

(b) (5)




[REDACTED]

Thanks, radhika

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Monday, April 19, 2021 5:00 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>; Fox, Radhika <Fox.Radhika@epa.gov>
Subject: I've thought more about the answer to potential COI #2

Radhika,

(b) (5), (b) (6)



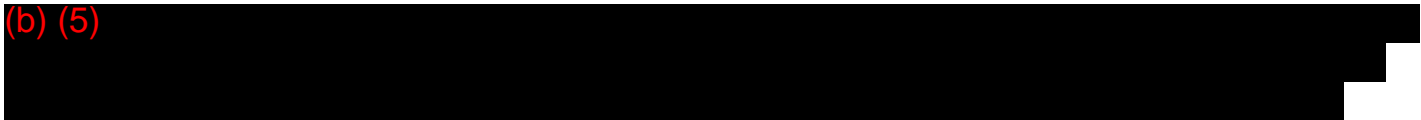
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Clarke, Victoria

From: Fugh, Justina
Sent: Monday, April 19, 2021 8:40 AM
To: Clarke, Victoria
Subject: RE: Updated: Fox Radhika_EPW Nominee Questionnaire_draft.docx

(b) (5)

A large rectangular area of the email body is completely blacked out, indicating redacted content.

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, April 19, 2021 8:23 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Updated: Fox Radhika_EPW Nominee Questionnaire_draft.docx

(b) (5)

A large rectangular area of the email body is completely blacked out, indicating redacted content.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Monday, April 19, 2021 2:52 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: Re: Updated: Fox Radhika_EPW Nominee Questionnaire_draft.docx

(b) (5)

A large rectangular area of the email body is completely blacked out, indicating redacted content.

Sent from my iPhone

On Apr 18, 2021, at 10:57 PM, Clarke, Victoria <clarke.victoria@epa.gov> wrote:

(b) (5)

A rectangular area of the email body is completely blacked out, indicating redacted content.

(b) (5)

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Sunday, April 18, 2021 8:45 PM
To: Fox, Radhika <Fox.Radhika@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: Updated: Fox Radhika_EPW Nominee Questionnaire_draft.docx

See attached, (b) (5)

Justina

From: Fugh, Justina
Sent: Sunday, April 18, 2021 8:43 PM
To: Fox, Radhika <Fox.Radhika@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Fox Radhika_EPW Nominee Questionnaire_draft.docx

Hi Radhika,
Victoria shared with me your proposed responses for the SEPW questionnaire, (b) (5)

(b) (5)

(b) (5)

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Clarke, Victoria <clarke.victoria@epa.gov>

Begin forwarded message:

From: "Fox, Radhika" <Fox.Radhika@epa.gov>

Date: April 17, 2021 at 5:09:16 PM EDT

To: "Clarke, Victoria" <clarke.victoria@epa.gov>

Subject: Fox Radhika_EPW Nominee Questionnaire_draft.docx

Hi Victoria:

Here is my draft nominee questionnaire. I have submitted this to OCIR for their review.

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

<Fox Radhika_EPW Nominee Questionnaire_draft JF comments.docx>
<Financial Holdings Recusal Chart.docx>

Clarke, Victoria

From: Fugh, Justina
Sent: Wednesday, April 21, 2021 8:45 PM
To: Fox, Radhika; Clarke, Victoria
Subject: RE: Draft recusal

I believe it was Friday, March 5 from 11:30 am to 12 noon eastern time.

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Wednesday, April 21, 2021 8:05 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Draft recusal

Thank you Victoria. Also, do you recall the date that you, Justina, Benita and I had our first meeting. I can't find it in my calendar. Thanks again for all the help and support.

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Wednesday, April 21, 2021 4:59 PM
To: Fox, Radhika <Fox.Radhika@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Draft recusal

Hi Radhika,

You've asked to see what a draft recusal statement might look like. I'm attaching an incomplete draft for you to look at – it lists your obligations under the Biden Pledge, explains when they end, and then goes into your financial recusal obligations, and how these things will be screened.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

Clarke, Victoria

From: Kitamura, Louise
Sent: Wednesday, May 05, 2021 5:55 PM
To: Clarke, Victoria
Subject: RE: Recusal memo

Thank you.

Louise Kitamura
Office of Water
Cell: 202-841-1718
[ELMS in OW SharePoint Site](#)

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Wednesday, May 5, 2021 5:31 PM
To: Kitamura, Louise <Kitamura.Louise@epa.gov>
Subject: RE: Recusal memo

Hi Louise,

There is nothing that we need from you. When Radhika files her New Entrant Report in INTEGRITY, we'll issue her a recusal statement.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel | Ethics Office
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Kitamura, Louise <Kitamura.Louise@epa.gov>
Sent: Wednesday, May 05, 2021 4:41 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: Recusal memo

Hi Victoria,

I haven't seen a recusal draft memo for Radhika yet and thought I'd check with you on status. Is there anything you need from me?

Thank you in advance,

Louise Kitamura
Office of Water
Cell: 202-841-1718
[ELMS in OW SharePoint Site](#)

Clarke, Victoria

From: Fugh, Justina
Sent: Wednesday, March 10, 2021 7:49 PM
To: Clarke, Victoria; Keith, Jennie
Subject: RE: Radhika Fox -- invitations to speak

Great! Thanks for confirming!

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Wednesday, March 10, 2021 6:06 PM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Radhika Fox -- invitations to speak

According to Radhika, there are no upcoming speaking engagements that she committed to prior to starting at EPA, whether it was to speak in her personal capacity or official capacity. The only event she agreed to speak at was the Women's Aquatic Network – but she cancelled that engagement and never spoke at it.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Keith, Jennie <Keith.Jennie@epa.gov>
Sent: Wednesday, March 10, 2021 4:49 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Radhika Fox -- invitations to speak

Thanks, Victoria!

This is still the same issue you and I coordinated together back in February. I still haven't heard back from Louise about the list we were seeking, so, we're just going straight to Radhika. Thank you, Jennie

On Mar 10, 2021, at 4:19 PM, Clarke, Victoria <clarke.victoria@epa.gov> wrote:

Sure, I can ask Radhika that.


Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel

Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Wednesday, March 10, 2021 4:05 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: Radhika Fox -- invitations to speak

Hi Victoria,

I think that you're going to be talking to Radhika later today. Could you ask her something on behalf of Jennie, please? Before she started at EPA, Radhika had been invited to speak at various events, some of which she would have to do in her personal capacity. (b) (5)



- What are the upcoming speaking engagements that Radhika committed to do before she joined EPA? We need the name of the event, sponsor and the date

We will need to determine whether she can do any of them in her official EPA capacity or not.

Thanks,
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

Clarke, Victoria

From: Kitamura, Louise
Sent: Wednesday, February 17, 2021 10:49 AM
To: Keith, Jennie; Clarke, Victoria
Subject: RE: Radhika's potential engagements

Hi Jennie,

I wonder if it is necessary to make that distinction? OW has a very structured process regarding any speaking engagements for Radhika. We have weekly meetings with her DAAs, specials assistants, communications director, and me on any invitations that Radhika receives. One of the first things considered even before we send a formal acceptance is whether it presents an ethics issue. Is there a reason to believe that Radhika would have other speaking engagements in her professional capacity that she would not be mentioning at our weekly meetings?

Louise Kitamura
Office of Water
Cell: 202-841-1718
[ELMS in OW SharePoint Site](#)

From: Keith, Jennie <Keith.Jennie@epa.gov>
Sent: Wednesday, February 17, 2021 10:04 AM
To: Kitamura, Louise <Kitamura.Louise@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Radhika's potential engagements

Hi Louise,

I just want to make sure that the information below are OW requests vs. the speaking engagements that she committed to prior to government service. Do you have any updates about those / list of when those will be ready to review?

Thanks!
Jennie for OGC/Ethics

From: Kitamura, Louise <Kitamura.Louise@epa.gov>
Sent: Thursday, February 11, 2021 4:58 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Radhika's potential engagements

Hi Victoria,

Not at this time. These are events that are still in the planning stage but looking at the summary information, I doubt it. Benita (my DEO) and I are on the lookout for any meetings/engagement that may include the US Water Alliance because of her most recent past position. Are there others I should be careful about until we receive her recusal memo?

Thanks,

Louise Kitamura
Office of Water
Cell: 202-841-1718

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Wednesday, February 10, 2021 12:06 PM
To: Kitamura, Louise <Kitamura.Louise@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: Radhika's potential engagements

Hi Louise,

For the 5 meetings, is US Water Alliance expected to be in attendance, too?

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Kitamura, Louise <Kitamura.Louise@epa.gov>
Sent: Wednesday, February 10, 2021 7:45 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: Radhika's potential engagements

Hi Victoria,

Here are the meetings and speaking engagements that Radhika is considering attending in the next couple of months. Please let me know, if any raise a "red flag." Please note that this is the initial step, i.e., we keep a "tracker" of potential events but if an engagement is being considered seriously, we ask for more information (especially for the speaking engagements).
Thanks!

Meetings

Federal Water Affordability
Assistance
Funding Discussion

Presidential Plastics Action
Plan Meeting

Technology for Water
System Automation

Association of National
Estuary Programs
(ANEP) Meeting

National Association of
Flood and Stormwater
Management Agencies
(NAFSMA) Meeting

Speaking Engagements

National
Association of
Clean Water
Agencies
(NACWA)

Government
Executive

American
Society of Civil
Engineers (ASCE)

Association of
Clean Water
Administrators

Association of
Metropolitan
Water Agencies

Water Reuse

Association of
State Drinking
Water
Administrators
(ASDWA)

National Water
Quality
Monitoring
Council

AWWA's Water
Utility Council

Louise Kitamura
Office of Water
Cell: 202-841-1718
[ELMS in OW SharePoint Site](#)

From: [Fugh, Justina](#)
To: [Radhika Fox](#)
Subject: RE: happy to talk with you!
Date: Wednesday, January 13, 2021 1:18:00 AM

Okay, it's a date and, yes, I'm a very late night person! I say it's because I was born in San Francisco and never adjusted to east coast time.

From: Radhika Fox (b) (6)
Sent: Wednesday, January 13, 2021 1:13 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: happy to talk with you!

It's all good! I generally rise early. And I have decided I'm going to try and keep 6am-3pm my time as my "work and meeting hours". I think it will be best during this remote time to be on the Same schedule as the team. (b) (6). And you seem to be a night owl!

On Tue, Jan 12, 2021 at 9:52 PM Fugh, Justina <Fugh.Justina@epa.gov> wrote:

But 10:30 am eastern is the ungodly hour of 7:30 am pacific. Are you sure that's okay? I'll call you on your cell at that time.

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Radhika Fox (b) (6)
Sent: Wednesday, January 13, 2021 12:47 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Mosley, Ferne <mosley.ferne@epa.gov>
Subject: Re: happy to talk with you!

Thanks Justina! Wednesday at 10:30am eastern would work well for me. Would you like to call my cell number? (b) (6). Or i can send a google video link. thanks!

On Tue, Jan 12, 2021 at 8:59 PM Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi,
Today was busy, but I've got some availability this week:
Wednesday, 1/13 from 10:30 to 11:30 am, from 12:30 to 1 pm
Thursday, 1/14 from 9:30 to 11:30 am, from 12 to 2 pm
Friday, 1/15 from 12 to 3 pm
Let me know what works for you.

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Radhika Fox (b) (6)
Sent: Monday, January 11, 2021 10:24 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Mosley, Ferne <mosley.ferne@epa.gov>
Subject: Re: Welcome to the world of public financial disclosure reporting!

Thank you Justina, and hello Ferne!

This is indeed a most challenging form - y'all make the SF-86 look like a breeze. My goal is to submit by this weekend.

I have a couple of ethics related questions around my transition...it has to do with (b) (6)

; some speaking engagements; and phones. Would one of you have some time to speak with me this week?

Thanks and all the best, Radhika

On Tue, Jan 5, 2021 at 10:46 PM Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

As I mentioned to you last week, I think you should get started on completing the public financial disclosure report since you will be joining EPA on or about 1/20/21 as a non-career SES appointee in the position of Principal Deputy Administrator, Office of Water. Congratulations! Given this type of appointment, you are required by the Ethics in Government Act of 1978 to file the Public Financial Disclosure Report. What follows is a long, chatty email with tons of information. If you need help, then please contact Ferne Mosley, copied here, or me. We really are here to help you.

DEADLINE FOR SUBMITTING THE REPORT

Technically, your "new entrant" report is due no later than 30 days from your effective date at EPA or 2/19/21. If you need additional time, you must contact ethics@epa.gov before your deadline expires. There is a limit to how much additional time we can give you, and we can't grant any extension after the fact.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

EPA uses an electronic filing system (www.INTEGRITY.gov) for the public financial disclosure reports that is operated and secured by the U.S. Office of Government Ethics (OGE). You are required by law to complete the form, and we will use it to determine whether you have any financial conflicts of interest or other ethics concerns.

We created an account for you in INTEGRITY and have assigned you a "new entrant" report. Your filer category is "non career SES" and your filer status is "full time." We have pre-populated the address field with EPA's address because, well, this is a public form and we don't want anyone to know your personal address. For help in INTEGRITY, check out the OGE [Public Financial Disclosure Guide](#). The email from INTEGRITY.gov will provide you with specific instructions to log into the federal government's max.gov site, the gateway to INTEGRITY. If you didn't receive your account notification, then check your clutter box for messages from INTEGRITY.gov, or contact ethics@epa.gov.

There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of \$200 for not filing your report timely.

REQUIREMENT TO ANSWER ANY FOLLOW UP QUESTIONS WITHIN 14 DAYS

We will review your report as quickly as possible. If we have any questions, then we will notify you. At that point, you will have 14 calendar days to respond and resubmit your report back to us with any necessary changes.

REPORTING TRANSACTIONS

While you are in this position, you are a public financial disclosure filer who is subject to certain additional requirements of the Ethics In Government Act as amended by the STOCK Act. You will be required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds \$1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. We will go over this requirement during your initial ethics training, but I've also attached our reminder about late fees and when to report transactions. Remember, you are responsible for reporting transactions, even if you have a managed account, and you will be fined for a tardy periodic transaction report.

YES, YOU CAN BE FINED FOR NOT FILING PROMPTLY

It's worth repeating that you can be fined \$200 for not meeting the submission deadline (and you still have to file that report). PLEASE pay attention to your filing requirements! If you need an extension, then you must ask before your deadline expires. There is a limit to how much additional time you may receive.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form, so just know that you will have to provide a lot of information.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income, and other assets and income. You must report assets for yourself, your spouse and any dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than \$1000. Include any income from any source that exceeded \$200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than \$5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income

(e.g., dividends, cap gains).

- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation but, for these assets in tax deferred instruments, you do not need to provide the amount of income accrued.
- Do not report your federal salary, your spouse's federal salary, or Thrift Savings Plan information
- If you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.
- If your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments. Do not report term life insurance.
- If you have nothing to report in a section, be sure to click the "nothing to report" button
- The various parts of the form have different reporting periods, so please consult the attached "reporting periods" chart. Remember to check out the Office of Government Ethics' [Public Financial Disclosure Guide](#) or to contact OGC/Ethics for help. We know this is a beast of a form, so we really are here to help you.

OTHER ETHICS REQUIREMENTS FOR YOU

HATCH ACT

As a federal employee, you will be "lesser restricted" under the Hatch Act. During your new employee orientation, the ethics staff will go over the Hatch Act, which governs the political activity of government employees. For a refresher, you can familiarize yourself with the Hatch Act as it affects you by reviewing our attached handy chart.

ETHICS TRAINING

As a public financial disclosure filer, you must take one hour of ethics training this year. The new employee training you will have with the ethics staff meets your annual training requirement for this year. Next year, you will take the annual training online.

If you have any questions regarding this message or your obligations, then please contact Ferne Mosley or anyone in the OGC Ethics Office at ethics@epa.gov. We'll be happy to assist you.

Cheers,

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A |

Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Clarke, Victoria

From: Clarke, Victoria
Sent: Tuesday, March 30, 2021 9:17 AM
To: Fox, Radhika
Subject: RE: good morning!

Glad to hear you are making progress! We can absolutely meet tomorrow. The piece I drafted is with Justina for her review – she may think of some other options or note something that I missed.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fox, Radhika <Fox.Radhika@epa.gov>
Sent: Tuesday, March 30, 2021 8:27 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: good morning!

Hope that you are well. I am whittling away at the income section and I don't think we need to meet this morning. Would it be able to meet tomorrow instead to discuss the options doc you are drafting? I should have the missing info for the 278 complete by COB Wednesday. Thanks for all the help yesterday!

Radhika

Radhika Fox
Acting Assistant Administrator
Office of Water
U.S. Environmental Protection Agency
Fox.Radhika@epa.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Timely Filing of Public Financial Disclosure and Periodic Transaction Reports

FROM: David Cozad *David Cozad* 8/29/19
Acting Designated Agency Ethics Official

TO: All EPA Public Financial Disclosure Report Filers

In 1978, Congress enacted the Ethics In Government Act, 5 U.S.C. app., to establish the Executive Branch financial disclosure reporting system that requires mandatory public disclosure of financial and employment information of certain officials and their immediate families. Because you occupy a designated position (either permanently or for more than 60 days on detail), you are required by this statute to file the public financial disclosure report. As executive branch employees, we are all bound by federal ethics laws and regulations, including prohibitions against financial conflicts of interest and loss of impartiality. Your disclosures allow the Office of General Counsel's Ethics Office (OGC/Ethics) to assist you in identifying and addressing potential or actual conflicts of interest in order to maintain the integrity of the Agency's programs and operations.

This memorandum formally reminds you that you are required by law to timely and accurately file your Public Financial Disclosure Reports (OGE 278e)¹ and Periodic Transaction Reports (OGE 278-Ts).² Failure to file timely will result in a **\$200 late filing fee** unless you formally request and receive a waiver of the late fee from the Designated Agency Ethics Official (DAEO) or Alternate Designated Agency Ethics Official (ADAEO).³ Unpaid late fees are subject to the Agency's⁴ and the government's debt collection procedures.

In addition to filing timely, you must also file a complete and accurate report. Should OGC/Ethics contact you for any additional required information, you will have no more than **30 days** to update your report. For guidance on how to file an accurate report, please refer to the Public Financial Disclosure Guide or contact OGC/Ethics at ethics@epa.gov.

¹ See 5 U.S.C. app. § 101; 5 C.F.R. § 2634.201.

² Pub. L. 112-105 § 11 (STOCK Act).

³ See 5 U.S.C. app. § 104(d)(1); 5 C.F.R. § 2634.704(a).

⁴ See Resource Management Directive System 2540-03-P2 dated 07/12/2016.

Please refer to this chart for your filing obligations:

OGE 278e - New Entrant reports	Within 30 days of entering a covered position (either by appointment to a permanent or acting in covered position)
OGE 278e – Incumbent reports	No later than May 15
OGE 278e – Termination reports	No later than 30 days after leaving a covered position (either through reassignment, resignation, or the end of acting in a covered position) (Reports may be submitted within 15 days prior to termination)
OGE 278T – Periodic transaction reports ⁵	The earlier of 30 days after learning of a transaction or 45 days of the transaction taking place.

How to request an extension of the filing deadline:

For good cause (e.g., travel, workload issues, sickness), you may request up to two 45-day extensions. Submit the request by email, including the reason, to ethics@epa.gov **prior to the due date**. Extensions cannot be granted after the due date has passed.

How to request the waiver of a late filing fee:

If *extraordinary circumstances* prevented you from meeting the deadline and OGC/Ethics assessed a late fee, you may request a waiver of the late fee. See 5 C.F.R. § 2634.704. Submit your request in writing to ethics@epa.gov, to the attention of the DAEO and ADAEO, describing the extraordinary circumstances and provide any supporting documentation. Please note that vacations or routine work obligations are not “extraordinary” circumstances. The decision to grant or deny a waiver is at the sole discretion of the DAEO/ADAEO and is final.

You are required by law to comply with these financial reporting obligations. Your colleagues in OGC/Ethics are available to provide assistance, but it is always your obligation to file your reports timely and accurately. In fact, ethics regulations *require* that we refer individuals to the Department of Justice (DOJ) when there is reasonable cause to believe that they have willfully failed to file a required report or provide the information that the report requires. The current maximum civil penalty is \$56,216.⁶

As public servants, we know that you take your ethics obligations seriously. As such, we expect you to make a good faith effort to adhere to the timeliness and completeness requirements of your financial disclosure reporting obligations. If you have any questions, please contact ethics@epa.gov.

ATTACHMENT - *When to Report Transactions on the OGE 278 and OGE 278T*

cc: Justina Fugh, Alternate Designated Agency Ethics Official

⁵ See attached guidance – *When to Report Transactions on the OGE 278 and OGE 278T*.

⁶ In 2012, OGC/Ethics referred an individual to DOJ for failure to file a termination report despite repeated reminders and entreaties. That individual paid a civil penalty of \$15,000 and still had to file the termination report.

The reporting periods for the OGE Form 278e vary depending on the type of report being filed.

Part	Report Information for the Following Period...			
	Nominee, New Entrant, and Candidate	Annual	Termination	Annual / Termination
1. Filer's Positions Held Outside United States Government	Preceding Two Calendar Years to Filing Date	Preceding Calendar Year to Filing Date	Current Calendar Year to Term Date (in addition, the preceding calendar year if an Annual report for that year is required but has not yet been filed)	Preceding Calendar Year to Term Date
2. Filer's Employment Assets & Income and Retirement Accounts	Preceding Calendar Year to Filing Date ¹	Preceding Calendar Year	Same as Part 1	Same as Part 1
3. Filer's Employment Agreements and Arrangements	As of Filing Date	Preceding Calendar Year to Filing Date	Same as Part 1	Same as Part 1
4. Filer's Sources of Compensation Exceeding \$5,000 in a Year	Preceding Two Calendar Years to Filing Date (n/a for Candidates)	N/A – Leave this Part blank	N/A – Leave this Part blank	N/A – Leave this Part blank
5. Spouse's Employment Assets & Income and Retirement Accounts	Preceding Calendar Year to Filing Date ¹	Preceding Calendar Year	Same as Part 1	Same as Part 1
6. Other Assets and Income	Preceding Calendar Year to Filing Date ¹	Preceding Calendar Year	Same as Part 1	Same as Part 1
7. Transactions	N/A – Leave this Part blank	Preceding Calendar Year ²	Same as Part 1 ²	Same as Part 1 ²
8. Liabilities	Preceding Calendar Year to Filing Date ¹	Preceding Calendar Year	Same as Part 1	Same as Part 1
9. Gifts and Travel Reimbursements	N/A – Leave this Part blank	Preceding Calendar Year ³	Same as Part 1 ³	Same as Part 1 ³

1. For example, if today is March 3, 2019, the reporting period would run from January 1, 2018, to March 3, 2019. When valuing assets and liabilities, the filer may choose any date that is fewer than 31 days before the filing date.

2. Filers do not need to include any period when they were not a public financial disclosure filer or an employee of the United States Government.

3. Filers do not need to include any period when they were not an employee of the United States Government.

Extensions Do Not Change the Reporting Period

The reporting period is tied to a report's original due date and is unaffected by any extensions. For example, a New Entrant report was originally due December 14, 2019. The filer received a 30-day extension and filed January 8, 2020. The Part 2 reporting period would start on January 1, 2018, and end on December 14, 2019.

When to Report Transactions

FILING DEADLINE : 30 days from notification or 45 days from transaction *whichever is earlier*

A \$200 late filing fee penalty is assessed for each late periodic reporting period¹

	Periodic Transaction Report	Annual and/or Termination Report
Investment Assets	Report on the OGE 278-T?	Report on Part 7 of the OGE 278e?
Transactions of \$1,000 or less		
• Any asset in which the transaction amount is \$1,000 or less regardless of the type of asset or who owns the asset	No	No
Investment assets held by you, your spouse, or jointly held		
• Stocks or stock options	Yes	Yes
• Corporate or municipal bonds (exclude U.S. Treasury securities)	Yes	Yes
• Commodity futures	Yes	Yes
• Other investment securities	Yes	Yes
• Assets listed above in your individual, joint, or spousal brokerage accounts managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Stocks	Yes	Yes
• Corporate or municipal bonds (exclude U.S. Treasury securities)	Yes	Yes
• commodity futures	Yes	Yes
• other investment securities	Yes	Yes
• Assets listed above in dependent child's <u>own</u> or UGMA brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes ²
• Mutual funds, exchange traded funds, 529 plans, index funds, and/or other "excepted investment funds" ³	No	Yes
• Any asset in which the transaction amount is \$1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals) or certificates of deposit	No	No
• Money market accounts and mutual funds	No	No
• US Treasury securities (e.g., T bills, Treasury bonds, savings bonds)	No	No
• Federal government retirement accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust ⁴	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

Last updated November 2020

¹ This late fee is automatically imposed by law and is non-negotiable. You may request a waiver of any late filing fee from the Designated Agency Ethics Official or the Alternate DAEO if there are extraordinary circumstances. A fee waiver is at the sole discretion of the DAEO/ADAEO and is not subject to appeal. A filer who has unpaid late fees will be referred to the appropriate federal office or agency for debt collection procedures.

² Do not report the purchase or sale of your personal residence on Part 7 unless you rent it out at any time during the reporting period.

³ To be an excepted investment fund (EIF), the asset must be:

- (a) widely held (more than 100 participants),
- (b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
- (c) publicly traded (or available) or widely diversified.

Managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs) are not excepted investment funds in and of themselves. It may be that individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. But the fact that you have a managed account does not absolve you of your reporting requirements. That account is legally owned by you, and you're responsible for its assets and reporting transactions. If you have questions, contact ethics@epa.gov.

⁴ OGC/Ethics must determine that your trust qualifies as an “excepted trust.” For help, email ethics@epa.gov.

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity “directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group.”

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
Personal (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day and receive compensation for that work	Yes	Yes	Yes but nonpartisan only
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

*PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service

Clarke, Victoria

From: Fugh, Justina
Sent: Friday, January 22, 2021 2:05 PM
To: Harris, Sincere; Utech, Dan; Cassady, Alison; Hoffer, Melissa; Hamilton, Lindsay; Chaudhary, Dimple; Adhar, Radha; Fox, Radhika; Enobakhare, Rosemary; Fine, Philip; Katims, Casey; Arroyo, Victoria; Lucey, John; Goffman, Joseph; Carbonell, Tomas
Cc: OGC Ethics; Payne, James (Jim)
Subject: your ethics obligations ... briefing materials, references and the pledge
Attachments: Biden Ethics Pledge for digital signature.pdf; Ethics Briefing Packet for Political Appointees.pdf

Hi there,

Thank you all for attending your initial ethics briefing on Thursday, January 21, 2021. All of us in OGC/Ethics appreciate your attentiveness and interest. Attached is the briefing material we promised you that includes information about your transaction reporting obligations, the form to use for notification of negotiation for non-federal employment, a handy Hatch Act chart, and a one-pager on embedding ethics in your calendaring process. The packet also includes a pdf of the Biden Executive Order on "Ethic Commitments" for your reference. And I have attached separately the Biden Ethics Pledge for you to sign digitally and return to ethics@epa.gov.

So what about your financial disclosure report? Well, I'm not ready for you to work on that if you haven't yet started. I need to set up new accounts for you using your EPA email addresses, then will send you a new email with instructions. I know that some of you already started your reports that were assigned to your personal email address, which is fine. That information is saved and will be transferred over to your new accounts under your EPA email addresses. Try to find something to occupy your time over the next day or so (ha!), and then you can spend a leisurely and frustrating time with the public financial disclosure report a bit later, once you get the email from me. Each of you will have a contact on the OGC/Ethics team to help you navigate your form and any ethics concerns you may have. Our contact information is included on the first page of your briefing material. We are all always just a call or an email away.

Happy Friday!
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

ETHICS PLEDGE

I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. *Lobbyist Gift Ban.* I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
2. *Revolving Door Ban — All Appointees Entering Government.* I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
3. *Revolving Door Ban — Lobbyists and Registered Agents Entering Government.* If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq.*, or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq.*, within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:
 - (a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;
 - (b) participate in the specific issue area in which that particular matter falls; or
 - (c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.
4. *Revolving Door Ban — Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.
5. *Revolving Door Ban — Senior and Very Senior Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.
6. *Revolving Door Ban — Appointees Leaving Government to Lobby.* In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.
7. *Golden Parachute Ban.* I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.
8. *Employment Qualification Commitment.* I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. *Assent to Enforcement.* I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.

Signature _____

_____, 20____
Date

Name (Type or Print): _____

Ethics Briefing

1. The Ethics Program at the Environmental Protection Agency

You have ethics officials in the Office of General Counsel who can assist you:

Jim Payne Designated Agency Ethics Official (202) 564-0212 payne.james@epa.gov	
Justina Fugh Alternate Agency Ethics Official and Director of Ethics Office (202) 564-1786 fugh.justina@epa.gov	
Shannon Griffo Ethics Attorney (202) 564-7061 griffo.shannon@epa.gov	Margaret Ross Ethics Officer (202) 564-3221 ross.margaret@epa.gov
Jennie Keith Ethics Officer (202) 564-3412 keith.jennie@epa.gov	Victoria Clarke Ethics Attorney 202-564-1149 clarke.victoria@epa.gov
Ferne Mosley Ethics Attorney (202) 564-8046 mosley.ferne@epa.gov	OGC/Ethics All Staff and Helpline (202) 564-2200 ethics@epa.gov

You can also visit the [OGC/Ethics SharePoint site](#) for more information.

2. The General Principles of Ethical Conduct

As public servants, we have a duty to ensure that every citizen has complete confidence in the integrity of the United States and that we are not putting personal or private interests ahead of the public trust. There are 14 principles that form your [basic obligation of public service](#) that we'll address in this briefing material.

3. The President's Executive Order (for political appointees only)

On January 20, 2021, President Biden issued an Executive Order that includes an ethics pledge you must sign as a condition of your appointment. You are agreeing to a broader "ethics in government" plan to restore and maintain public trust in government, so please review the preamble carefully. The significant points of the pledge itself are described below:

If you were a federally registered lobbyist or registered foreign agent in the past 2 years:

- For the next 2 years, do not participate in any particular matter on which you lobbied or were registrable for under the Foreign Agents Registration Act within the previous 2 years and do not participate in the specific issue area in which that particular matter falls.
- Do not seek or accept employment with any government agency that you lobbied or engaged in registrable activity under FARA within the past 2 years.

While you are a federally employee:

- Do not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions (e.g., preexisting personal relationship, discount or benefit available to all government employees) but check with an ethics official for guidance.
- For 2 years from the date of your appointment, do not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former clients, including regulations and contracts.
 - Note: The definition of *former employer* excludes the federal government, state or local governments, D.C., Native American tribes, U.S. territories or possessions, or any international organization in which the U.S. is a member state. But under the federal impartiality rules, you will still have a one-year cooling off period with those entities (except if your former employer was already the US government).
- Any hiring or other employment decisions that you make will be based on the candidate's qualifications, competence and experience.
- Do not accept any salary or cash payment or any other non-cash benefit from a former employer for entering into government service.

When you leave federal service, you are agreeing to the following:

- If you are a "senior employee" subject to the one-year cooling off period under 18 U.S.C. § 207(c), your cooling off period will be extended by another year, for a total of two years.
- If you are a "senior employee" subject to either 18 U.S.C. § 207(c) or (d), for one year following your departure from federal service, you will not work behind the scenes to materially assist others in making communications or appearances to the United States Government that you would otherwise be unable to make under the post-employment restrictions.
- You will not lobby any covered executive branch official or non-career SES appointee for the remainder of this Administration or for 2 years following the end of your appointment, whichever is later.
- You will not engage in any activity on behalf of a foreign government or foreign political party

that would require you to register under the Foreign Agents Registration Act for the remainder of this Administrator or 2 years following the end of your appointment, whichever is later.

A copy of the Executive Order and the Biden Ethics Pledge that you must sign are included in this packet of materials.

4. Financial Disclosure Reporting

In your position, you are required to complete a public financial disclosure report as you begin the federal service and every year thereafter. You will file this report in INTEGRITY, an electronic system managed by the Office of Government Ethics. When you leave EPA, you will be required to submit a termination financial disclosure report. In addition, you are required to have one hour of ethics training as a new entrant (PAS appointees have an additional requirement for a specialized one-on-one ethics briefing), and also required to have one hour of ethics training each year. The Ethics Office in the Office of General Counsel (OGC/Ethics) provides your training either in person or virtually.

You must report any transaction of securities (stocks or bonds) over \$1000 on a periodic basis in INTEGRITY using the 278T. These periodic transactions must be reported the earlier of 30 days after learning of the transaction or 45 days after the transaction takes place. Failure to file timely results in late fees that are assessed as a matter of law.

In addition, you are required to notify OGC/Ethics within three days of beginning to negotiate for employment with any non-federal entity. To do so, use our Notification of Negotiation form.

Included in this packet of materials are reminders about the types of transactions that are to be reported periodically and not being tardy in filing any reports with OGC/Ethics.

5. Attorney Client Privilege & FOIA

By regulation, disclosure by an employee to an ethics official is not protected by the attorney-client privilege. 5 C.F.R. § 2635.107(b). This means that if our records (or yours) are requested under the Freedom of Information Act (FOIA), then we will not be able to redact our advice to you using the attorney-client privilege. However, we can -- and do -- assert personal privacy and deliberative process privileges where applicable. For example, the deliberative process privilege may apply to pre-decisional ethics advice documents, but please note that our final advice to you is generally releasable.

This should **not** stop you from seeking the advice of your ethics officials! Not only does it show you are being a steward of the public trust, but good faith reliance on advice received from your ethics officials after disclosing all relevant facts can shield you from disciplinary action and is a factor that the Department of Justice considers when deciding which cases they wish to prosecute.

6. Conflicts of Interest

Do not participate as an agency official in any matter if there is an actual conflict of interest or even the appearance of a conflict of interest. It's a crime to participate *personally and substantially* in *any particular matter* in which, to your knowledge, you or a person whose interests are imputed to you has a financial interest if the particular matter will have a *direct and predictable effect* on that interest.

Example: you own a lot of stock in XYZ Corporation, which is a chemical manufacturer. If your office is considering taking an enforcement action against XYZ Corporation, you must disqualify yourself from participating in the decision. Even if your mother gave your 10-year old twins the stock, you can't participate in the matter because their interest is imputed to you.

Remember, the interests of your spouse, dependent children, general business partner, and any organization in which you serve as officer, director, trustee or employee are imputed to you. This means that, under the criminal statute, it's the same thing as if you held those assets. So, you can't participate in any particular matter that may have a financial impact on the interests that are imputed to you.

7. Appearance of a Loss of Impartiality

Even if an action is not strictly prohibited, it is prudent to be careful of any action that a reasonable person with knowledge of the relevant facts may perceive as a violation of the ethics rules, or (if applicable) your ethics pledge and the Executive Order. You must avoid even the appearance of a loss of impartiality when performing official duties.

When we consider impartiality, we expand the ambit of relationships beyond the conflicts realm of "imputed interests." We consider all of your "covered relationships," which includes a lot more people: anybody with whom you have a business, contractual or financial relationship that is more than just a routine consumer transaction; any member of your household or a relative with whom you are close; the employer/partner or prospective employer/partner of your spouse, parent or dependent child; any person or organization for which you have served in the last year as an officer, agent, employee, etc.; and any organization in which you are an active participant.

You should refrain from engaging in official acts that may be perceived as an "appearance problem" by a reasonable person (and the reasonable person is not you, but rather your ethics officials).

Ethics officials can provide advice and determine whether a proposed course of action is appropriate by issuing an impartiality determination, but we cannot provide cover if you have already done the deed.

8. No representation back to the federal government

As a federal employee, you are prohibited from representing the interest of any other entity back to the federal government, whether you are paid for those services or not. For the purposes of these criminal statutes, 18 U.S.C. §§ 203 and 205, it does not matter that you are representing the interests of another in your private capacity. You cannot serve as agent or attorney for another entity back to the United States on a particular matter in which the US is a party or has a direct and substantial interest.

9. Acceptance of Gifts

Be careful of any gift from people outside the Agency, particularly those that are worth more than \$20. Gifts are anything of value and include allowing others to pick up the lunch tab, free tickets, invitations to receptions, and lovely fruit baskets. There are only a few exceptions, so consult your ethics officials before accepting any gift. Remember, political appointees can't take gifts from federally registered lobbyists.

EPA does not have broad Agency gift authority, so prohibited gifts must be paid for or returned. You should also not generally accept gifts exceeding \$10 from EPA employees, nor give gifts exceeding \$10 to your superiors. There are some exceptions, so check with an ethics official. By the way, you may give gifts to any EPA person who makes less money than you provided that person is not your supervisor.

10. Attendance at Widely-Attended Gatherings (ethics check required)

Your ethics official must make a written determination in advance as to whether your participation and attendance at certain events meet the criteria for a "widely attended gathering" exception of the gift rule. You can't make that determination yourself (nor can the sponsor of the event). For a WAG determination, your ethics official will consider the type of event, who is attending, and whether your attendance will further an Agency interest. This analysis must be done in writing and in advance of your attending the event. Any WAG that is approved is considered a gift to you, so you will be responsible for reporting the value of the gift on your financial disclosure report if it exceeds the reporting threshold. For political appointees, though, please bear in mind that this exception does not apply to federally registered lobbyists. Political appointees cannot accept free attendance at a widely attended gathering that is sponsored by or hosted by a federally registered lobbyist.

IMPORTANT NOTE about Embedding Ethics into Your Calendaring Process

Many ethics issues typically arise through the calendaring process of an EPA principal. Since you are responsible for your ethics obligations, we know you might need a little help. To assist you in navigating calendar and invitation issues, the EPA Ethics Office offers specialized assistance to you and your front office staff to advise on invitations, gifts associated with those invitations, etc. Embedding ethics is a proactive counseling practice that brings together the Principals, their staff, and local Deputy Ethics Officials to establish a process for incorporating ethics vetting into your or the Principal's calendar. Contact Jennie Keith to get started!

11. Travel Issues

Approval of gifts of travel, lodging and meals from non-Federal sources for meetings and similar events must be obtained from OGC/Ethics prior to the event. You can't accept such offerings on your own! We have an electronic form that we use to process such requests, and we must report the approvals to the Office of Government Ethics twice a year. See <http://intranet.epa.gov/ogc/ethics/travel.htm> . Prior to the pandemic, OGC/Ethics accepted over \$1 million each year in discretionary travel paid by non-federal sources.

12. Preferential Treatment of Non-Federal Entities (Endorsement)

Be careful about showing preferential treatment to any entity. We cannot endorse the products, services or enterprises of another, so you need to be careful about extolling the virtues of a regulated entity, a particular contractor or applicant, etc. Seek ethics advice before collaborating with non-federal entities on initiatives and events because not all of EPA's statutes allow us to cooperate with non-feds.

13. Political Activities

You are now bound by the Hatch Act, which governs the political activity of federal employees, even in your personal capacity. Career SES employees are bound by even more restrictions, while Presidentially Appointed and Senate Confirmed (PAS) employees enjoy more liberties. Do not rely on what you think other people can do; find out for yourself by asking your ethics officials.

Some limitations under the Hatch Act are 24/7, meaning that you have restrictions even on your time. For example, you are never permitted to solicit, accept or receive political contributions, not even in your personal time. You can never use your EPA title or position to fundraise in connection with any political activity. Because the Hatch Act rules vary depending on your type of appointment, please see the attached chart and consult your ethics officials.

14. Lobbying Issues

EPA employees cannot use appropriated funds to engage in indirect or grassroots lobbying regarding any legislative proposal. Indirect or grassroots lobbying generally means urging members of special interest groups or the general public to contact legislators to support or oppose a legislative proposal. EPA employees cannot make explicit statements to the public to contact members of Congress in support of or in opposition to a legislative proposal. Other prohibited grassroots lobbying includes an employee's explicit request, while on official time, to an outside group asking it to contact Congress to support or oppose EPA's appropriations bill.

In addition, EPA is prohibited from using appropriated funds for activities that would "tend to promote" the public to contact Congress in support of or in opposition to a legislative proposal, even if an EPA employee does not expressly state that the public should contact Congress. This activity is considered "indirect lobbying" and is prohibited. You may, after coordinating with OCIR and Public Affairs, directly contact or lobby members of Congress and their staffs regarding the Administration's legislative proposals. Again, after getting approval from OCIR, you may also educate and inform the public of the Administration's position on legislative proposals by delivering speeches and making public remarks explaining the Administration's position on a legislative proposal.

15. Use of Government Personnel and Resources

EPA policy permits employees to “limited use” of government equipment, including the telephone, copying machines, fax machines, etc. Employees cannot, however, engage in outside activity or employment on government time. GSA regulations also prohibit any fundraising on federal property (except for the Combined Federal Campaign), so employees cannot raise money for their favorite charity (i.e., sell cookies, candy or wrapping paper for a “good cause”). They also cannot use the internet connection for gambling or to access pornography. See EPA’s [Limited Personal Use of Government Equipment Policy](#). Avoid using your EPA email address for personal matters, and do not use your personal email address for EPA matters.

16. Outside Activities

We were advised by the Biden Presidential Transition Team that non-PAS political appointees may have outside positions that are consistent with federal ethics regulations, including the Agency’s ethics regulations. Non-Career SES and Schedule C appointees must seek prior approval from EPA Ethics for certain outside activity consistent with EPA’s Supplemental Ethics Regulations at [5 C.F.R. § 6401.103](#). Examples of activity that require prior approval are practicing a profession or teaching, speaking or writing on subjects related to EPA programs, policies or operations. While there is a *de minimis* use of government equipment, that never applies to any compensated outside activity.

Most EPA employees may not receive any compensation for teaching, speaking or writing (including consulting) that relates in significant part to your assigned EPA duties, duties to which you’ve been assigned in the previous year, or to any ongoing Agency program, policy or operation. But if you are a non-career SES employee, then your restriction is even broader: you may not receive compensation at all for any teaching, speaking or writing that relates to your official duties or even to EPA’s general subject matter area, industry, or economic sector primarily affected by EPA’s programs and operations. [5 C.F.R. § 2635.807\(a\)\(2\)\(i\)\(E\)\(3\)](#).

Non-Career SESers must also abide by these additional restrictions:

- You are subject to the outside earned income cap that is set each January. As of January 2021, that amount is \$29,595. See [5 C.F.R. § 2635.804\(b\)](#) and [5 C.F.R. § 2636.304](#). This amount changes each year;
- You cannot receive compensation for practicing a profession that involves a fiduciary relationship; affiliating with or being employed by a firm or other entity that provides professional services involving a fiduciary relationship; or teaching without prior approval. See note to [5 C.F.R. § 2635.804\(b\)](#) and [5 C.F.R. § 2636.305](#);
- You may be permitted to serve as an officer or member of the board of any association, corporation or other entity, but cannot be compensated for such service. [See 5 C.F.R. § 2636.306](#); and
- You may not receive compensation for any other teaching unless specifically authorized in advance by OGC/Ethics (specifically, the Designated or Alternate Designated Agency Ethics Official listed on the first page of this briefing material). [See 5 C.F.R. § 2636.307](#).

17. Ethics Obligations of Supervisors

If you are a supervisor, you must model ethical behavior for your staff. Set forth below are your additional ethics responsibilities, found at [5 C.F.R. § 2638.103](#):

Every supervisor in the executive branch has a heightened personal responsibility for advancing government ethics. It is imperative that supervisors serve as models of ethical behavior for subordinates. Supervisors have a responsibility to help ensure that subordinates are aware of their ethical obligations under the [Standards of Conduct](#) and that subordinates know how to contact [agency ethics officials](#). Supervisors are also responsible for working with agency ethics officials to help resolve conflicts of interest and enforce government ethics laws and regulations, including those requiring certain employees to file financial disclosure reports. In addition, supervisors are responsible, when requested, for assisting agency ethics officials in evaluating potential conflicts of interest and identifying positions subject to financial disclosure requirements.

Your staff may ask you ethics questions, but unless you are an ethics official, you are not authorized to answer those ethics questions. If you receive an ethics question, then contact your own local Deputy Ethics Official or notify OGC/Ethics at ethics@epa.gov.

18. Seeking Employment

It's always odd to talk about seeking employment when we are welcoming you to EPA, but be mindful of the fact that there are restrictions that will apply. You won't be able to participate in a particular matter involving a party with which you are seeking employment, and that obligation starts as soon as you directly or indirectly contact a prospective employer, or as soon as you get a response expressing interest in you. You will need to disqualify yourself from particular matters that may affect the prospective employer.

19. Negotiating for Employment

Should your pursuit of future employment advance to "negotiating" for employment with a particular entity, then you will have conflicts of interest. The financial interests of any person or entity with whom you are "negotiating" for employment are imputed to you for the purposes of the criminal conflict of interest statute, 18 U.S.C. § 208. You will need to recuse yourself from participating in any particular matter that will have a direct and predictable effect upon the interests of the prospective employer, either as a specific party or as a member of a class, which will include particular matters that apply generally to the prospective employer's industry or class.

Filers of the public financial disclosure report are further subject to the Ethics In Government Act, as amended by the STOCK Act, which requires you to notify OGC/Ethics within three days of commencing negotiations for future employment with a non-federal employer. Yes, we have a form for that notification.

20. Post-Government Employment - Representational Restrictions

Even after you leave federal service, there are federal post-employment restrictions. Your pledge restrictions are supplementary to these restrictions. Your ethics officials are still available to answer your post-employment questions, even after you leave EPA. You will need to have an exit discussion with OGC/Ethics before you leave EPA, but here are the highlights of what we'll discuss regarding the federal law. You will also be bound by the additional restrictions of the Biden Ethics Pledge adumbrated on pp. 2-3 of this briefing material.

Lifetime bar - on particular matters that you worked on

You will be prohibited by criminal statute from representing back to the federal government on any particular matter involving specific parties in which you participated personally and substantially while in federal service. "Representation back" means making an appearance or communication, on behalf of another, with the intent to influence an official action. And the matter must involve the United States or be one in which the US has an interest.

Example: You are asked by XYZ Corporation to contact EPA about seeking an exemption so that a particular permit you granted while in your position no longer applies to them. You cannot do that because you worked on that matter while at EPA. You are permanently barred from representing another back to the federal government on that same matter.

2-year bar - on EPA matters pending during your last year in federal service

You are prohibited (again, by criminal statute) from representing back to the federal government on any particular matter involving specific parties that was pending under your official responsibility during your last year of federal service. Even if you recuse yourself from a matter, you are still bound by the two-year bar. You are not permanently restricted, since you didn't work on the matter personally and substantially, but you are prohibited from representing another back to the federal government on that matter for two years.

Senior Employee "cooling off restriction" – on any matter

Depending on your rate of pay, you may be considered a "senior official" and will be restricted for one year from making any contact with EPA following your departure (under the federal ethics regulation). Political appointees have additional time restrictions under the Biden Ethics Pledge. This prohibition is not limited to particular matters. Rather, you cannot knowingly make any communication or appearance to EPA employees on behalf of another with the intent to influence in connection with any matter in which you seek official EPA action.

Effective January 3, 2021, the defining rate of pay for "senior officials" is [\\$172,395 per year](#) (excluding locality pay). If you make more than that (before locality pay), then you are a "senior employee" and will be bound by the cooling off period. By the way, SESers do not get locality pay so, most likely, any SESer will be a "senior employee" and subject to this restriction.

Welcome to EPA and thank you for keeping ethics in the forefront of all we do!



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

January 22, 2021

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Timely filing of Public Financial Disclosure and Periodic Transaction Reports

FROM: Justina Fugh
Alternate Designated Agency Ethics Official

TO: All EPA Political Appointees

In 1978, Congress enacted the Ethics In Government Act, 5 U.S.C. app. to establish the Executive Branch financial disclosure reporting system that requires mandatory public disclosure of financial and employment information of certain officials and their immediate families. Because you occupy a designated position, you are required by this law to file these reports in the electronic system, *INTEGRITY*. As an executive branch employee, you are bound by federal ethics laws and regulations, including prohibitions against financial conflicts of interest and loss of impartiality. Your disclosures allow the Office of General Counsel's Ethics Office (OGC/Ethics) to assist you in identifying and addressing potential or actual conflicts of interest in order to maintain the integrity of the Agency's programs and operations. These reports are publicly available upon request and the reports of certain Presidential Appointees confirmed by the Senate will be posted on the U.S. Office of Government Ethics' website at www.oge.gov.

This memorandum formally informs you that you are required by law to file timely and accurate Public Financial Disclosure Reports (OGE 278e)¹ and Periodic Transaction Reports (OGE 278-Ts).² **Filing a late report will result in a \$200 late filing fee** unless you formally request and receive a waiver of the late fee from me or the Designated Agency Ethics Official (DAEO), Jim Payne, after describing extraordinary circumstances that caused you to file a late report.³ **Unpaid late fees are subject to the Agency's⁴ and the government's debt collection procedures and will be referred for collection if left unpaid after 30 days.**

Please refer to this chart for your filing obligations:

¹ See 5 U.S.C. app. § 101; 5 C.F.R. § 2634.201.

² Pub. L. 112-105 § 11 (STOCK Act).

³ See 5 U.S.C. app. § 104(d)(1); 5 C.F.R. § 2634.704(a).

⁴ See Resource Management Directive System 2540-03-P2 dated 07/12/2016.

OGE 278e - New Entrant reports	Within 30 days of entering a covered position (either by appointment to a permanent or acting in covered position)
OGE 278e – Incumbent reports	No later than May 15
OGE 278e – Termination reports	No later than 30 days after leaving a covered position (either through reassignment, resignation, or the end of acting in a covered position) (Reports may be submitted within 15 days prior to termination)
OGE 278T – Periodic transaction reports ⁵	The <i>earlier of</i> 30 days after learning of a transaction or 45 days of the transaction taking place.

How to request an extension of the filing deadline:

For good cause (e.g., travel, workload issues, sickness), you may request up to two 45-day extensions. Submit the request by email, including the reason, to ethics@epa.gov **prior to the due date**. Extensions cannot be granted after the due date has passed.

How to request the waiver of a late filing fee:

If *extraordinary circumstances* prevented you from meeting the deadline and OGC/Ethics assessed a late fee, you may request a waiver of the late fee. See 5 C.F.R. § 2634.704. Submit your request in writing to ethics@epa.gov describing the extraordinary circumstances and provide any supporting documentation. Please note that vacations or routine work obligations are not “extraordinary” circumstances. The decision to grant or deny a waiver is at the sole discretion of the DAEO/ADAE and is final.

Your colleagues in OGC/Ethics are available to provide assistance but it is always your obligation to file your reports timely and accurately. In fact, ethics regulations *require* that we refer individuals to the Department of Justice (DOJ) when there is reasonable cause to believe that they have willfully failed to file a required report or provide the information that the report requires. The current maximum civil penalty is \$56,216.⁶

As public servants, we hope that you will take your ethics obligations seriously. As such, we expect you to make a good faith effort to adhere to the timeliness and completeness requirements of your financial disclosure reporting obligations. If you have any questions, please contact ethics@epa.gov.

ATTACHMENT - *When to Report Transactions on the OGE 278 and OGE 278-T*

⁵ See attached guidance – *When to Report Transactions on the OGE 278 and OGE 278-T*.

⁶ In 2012, OGC/Ethics referred an individual to DOJ for failure to file a termination report despite repeated reminders and entreaties. That individual paid a civil penalty of \$15,000 and still had to file the termination report.

When to Report Transactions

DUE DATE: The earlier of the following: 30 Days from Notification or 45 Days from Transaction

	Periodic Transaction Report	Annual and/or Termination Report
Investment Assets	Report on the OGE 278-T?	Report on Part 7 of the OGE 278e?
Transactions of \$1,000 or less		
• Any asset in which the transaction amount is \$1,000 or less regardless of the type of asset or who owns the asset	No	No
Your investment assets (or jointly held)		
• Your stocks	Yes	Yes
• Your bonds (except U.S. Treasury securities)	Yes	Yes
• Your commodity futures	Yes	Yes
• Your other investment securities	Yes	Yes
• Assets listed above in your (joint) brokerage accounts, (joint) managed accounts, IRAs, other retirement accounts, and/or other (joint) investment vehicles	Yes	Yes
Your spouse's investment assets		
• Spouse's stocks	Yes	Yes
• Spouse's bonds (except U.S. Treasury securities)	Yes	Yes
• Spouse's commodity futures	Yes	Yes
• Spouse's other investment securities	Yes	Yes
• Assets listed above in spouse's <u>own</u> brokerage account, managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Dependent child's stocks	Yes	Yes
• Dependent child's bonds (except U.S. Treasury securities)	Yes	Yes
• Dependent child's commodity futures	Yes	Yes
• Dependent child's other investment securities	Yes	Yes
• Assets listed above in dependent child's <u>own</u> brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes ¹
• Mutual funds, exchange traded funds, index funds and/or other "excepted investment funds" ²	No	Yes
• Any asset in which the transaction amount is \$1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals)	No	No
• Money market accounts	No	No
• Money market funds	No	No
• Certificates of deposits	No	No
• US Treasury Securities (e.g., T bills, Treasury bonds, U.S. savings bonds)	No	No
• Federal Government Retirement Accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust ³	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

¹ Do not report the purchase or sale of your personal residence on Part 7 unless you rent it out at any time during the reporting period.

² To be an excepted investment fund (EIF), the asset must be:

- (a) widely held (more than 100 participants),
- (b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
- (c) publicly traded (or available) or widely diversified.

Managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs) are not excepted investment funds in and of themselves. It may be that individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. But the fact that you have a managed account does not absolve you of your reporting requirements. That account is legally owned by you, and you're responsible for its assets and reporting transactions. If you have questions, contact ethics@epa.gov.

³ OGC/Ethics must determine that your trust qualifies as an “excepted trust.” For help, email ethics@epa.gov.

REQUIREMENT: Notify OGC/Ethics within 3 business days of commencing the negotiation or agreement for post-government employment or compensation

NOTIFICATION OF NEGOTIATION OR AGREEMENT

Your full name

Your telephone number*

Date negotiation or agreement began

Your Title / Office / AAship or Region

Your email address*

Name of non-federal entity that you are negotiating with or have an agreement for employment or compensation

** Provide information for OGC/Ethics to use to contact you as part of our official duty. For this purpose, you may provide a personal email address or cell number.*

RECUSAL STATEMENT

To assist in identifying your recusal obligations, check the appropriate boxes below:

- | | Yes | No | |
|----|--------------------------|--------------------------|---|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | EPA's programs, policies, or operations affect the non-federal entity with which I am seeking employment. |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | My office in EPA does work that affects the non-federal entity with which I am seeking employment. |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | The work I participate in affects or will affect the non-federal entity with which I am seeking employment. |

Need help answering these statements?
See page 2.

For as long as I am negotiating for, or have an agreement of, employment or compensation with the entity listed above, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of this entity, unless I first obtain from OGC/Ethics a written authorization or waiver consistent with 5 C.F.R. § 2635.605 or 18 U.S.C. § 208(b)(1). I understand that it is my responsibility to consult with OGC/Ethics if I have questions regarding my recusal obligations.

Sign and submit to ethics@epa.gov:

Your signature

OGC/Ethics Use Only:

Statement 1: EPA’s programs, policies, or operations affect the non-federal entity with which I am seeking employment.

If your answer is “yes” to any of the following questions, then you must answer “yes” to statement 1.

- Is the non-federal entity seeking official action from EPA (even if not your own office)?
- Does the non-federal entity do business or seek to do business with the EPA (even if not your own office)?
- Does the non-federal entity conduct activities that EPA regulates (even if not in your own office)?
- Does the non-federal entity have interests that may be substantially affected by the performance or non-performance of your official duties?
- Is the non-federal entity a membership organization in which the majority of the members are described in the preceding questions?

Statement 2: My office in EPA does work that affects the non-federal entity with which I am seeking employment.

To answer this question, think about the nexus between the work of your office and the non-federal entity. The closer the nexus, the more likely you will have to check “yes” to statement 2.

- Consider the particular matters your office works on and whether there is any connection to the work of this entity. Does your office work on permits, investigations, litigation, grants, licenses, contracts, applications, enforcement cases, or other similar types of matters where there is an identified non-federal entity (i.e., particular matters involving specific parties)?
- Also consider whether your office is involved in scientific programs, media programs, or other types of policies, procedures, guidance documents, regulations, etc., that would affect this particular industry or sector (i.e., particular matters of general applicability).

Statement 3: The work I participate in affects or will affect the non-federal entity with which I am seeking employment.

Think about the nexus between your work and the non-federal entity as well as its respective class, industry or sector. The closer the nexus between your work and the sector the non-federal entity belongs to, the more likely you will check have to check “yes” to statement 3.

- Will the work you do affect the sector? Don’t concentrate on whether your personal contributions will be determinative but rather, overall, how the outcome of the work itself will affect the sector and the non-federal entity with which you are negotiating.
- Do you advise on or consult with your colleagues’ projects and work? Does their work affect this sector or the non-federal entity?
- Do you actively supervise or assign work to subordinates? Do those assignments affect the sector or the non-federal entity?

Need help answering these statements? Contact ethics@epa.gov to discuss.

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity “directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group.”

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
Personal (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day and receive compensation for that work	Yes	Yes	Yes but nonpartisan only
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

*PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service

EPA Ethics Program

Counseling Practice Area:

Vetting Invitations

Quick Summary:

One of the more visible ways ethics issues arise are those that come up during the calendaring of events and invitations for an EPA principal and their immediate staff. The ethics issues run the whole gambit:

Recusal Obligations ♦ Gifts ♦ Fundraising ♦ Political Activity ♦ Endorsements
President's Ethics Pledge ♦ Misuse of Position

Embedding ethics is a proactive counseling practice that brings together the Principals, their immediate staff, and Deputy Ethics Officials to establish a process for incorporating ethics vetting into the Principal's calendar. This helps and supports the EPA principal to meet their ethics obligations and maintain integrity of agency programs and operations.

Who:

Principals (Administrator, Deputy Administrator, Assistant Administrators, and Regional Administrators, certain Deputy Associate Administrators), their immediate staff, and Deputy Ethics Officials.

What:

Preventing conflicts of interest and other ethics issues by embedding ethics review into the calendaring process for principals.

When:

Upon the appointee's start of EPA service

Where:

Through coordination in the principal's front office and immediate staff

Why:

Principals and other political appointees encounter frequent ethics issues arising through acceptance of external events, travel, and meetings with external participants. With increased public scrutiny and ethics legal frameworks, this is a high risk area in the ethics program. It is the principal's responsibility to avoid ethics issues and to maintain public trust in government.

How:

To navigate these ethics issues, we establish a process, use standard event information gathering forms, and train periodically, so a principal's front office can obtain all relevant information for an event and ethics officials can advise appropriately and timely prior to acceptance.

Executive Order on Ethic Commitments by Executive Branch Personnel

JANUARY 20, 2021 • [PRESIDENTIAL ACTIONS](#)

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2021, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

“I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

“Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

“1. Lobbyist Gift Ban. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

“2. Revolving Door Ban — All Appointees Entering Government. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

“3. Revolving Door Ban — Lobbyists and Registered Agents Entering Government. If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 et seq., or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 et seq., within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

(a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

(b) participate in the specific issue area in which that particular matter falls; or

(c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

“4. Revolving Door Ban — Appointees Leaving Government. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.

“5. Revolving Door Ban — Senior and Very Senior Appointees Leaving Government. If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections’ implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.

“6. Revolving Door Ban — Appointees Leaving Government to Lobby. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.

“7. Golden Parachute Ban. I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.

“8. Employment Qualification Commitment. I agree that any hiring or other employment decisions I make will be based on the candidate’s qualifications, competence, and experience.

“9. Assent to Enforcement. I acknowledge that the Executive Order entitled ‘Ethics Commitments by Executive Branch Personnel,’ issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.”

Sec. 2. Definitions. For purposes of this order and the pledge set forth in section 1 of this order:

(a) “Executive agency” shall include each “executive agency” as defined by section 105 of title 5, United States Code, and shall include the Executive Office of the President; provided, however, that “executive agency” shall include the United States Postal Service and Postal Regulatory Commission, but shall exclude the Government Accountability Office.

(b) “Appointee” shall include every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) “Gift”:

(i) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(ii) shall include gifts that are solicited or accepted indirectly, as defined in section 2635.203(f) of title 5, Code of Federal Regulations; and

(iii) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) and (3), and (j) through (l) of title 5, Code of Federal Regulations.

(d) “Covered executive branch official” and “lobbyist” shall have the definitions set forth in section 1602 of title 2, United States Code.

(e) “Registered lobbyist or lobbying organization” shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, “registered lobbyist” shall include each of the lobbyists identified therein.

(f) “Lobby” and “lobbied” shall mean to act or have acted as a registered lobbyist.

(g) “Lobbying activities” shall have the definition set forth in section 1602 of title 2, United States Code.

(h) “Materially assist” means to provide substantive assistance but does not include providing background or general education on a matter of law or policy based upon an individual’s subject matter expertise, nor any conduct or assistance permitted under section 207(j) of title 18, United States Code.

(i) “Particular matter” shall have the same meaning as set forth in section 207 of title 18, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(j) “Particular matter involving specific parties” shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one’s official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(k) “Former employer” is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that “former employer” does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, any United States territory or possession, or any international organization in which the United States is a member state.

(l) “Former client” is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service

provided was limited to speeches or similar appearances. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(m) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(n) "Participate" means to participate personally and substantially.

(o) "Government official" means any employee of the executive branch.

(p) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(q) "Pledge" means the ethics pledge set forth in section 1 of this order.

(r) "Senior White House staff" means any person appointed by the President to a position under sections 105(a)(2)(A) or (B) of title 3, United States Code, or by the Vice President to a position under sections 106(a)(1)(A) or (B) of title 3.

(s) All references to provisions of law and regulations shall refer to such provisions as are in effect on January 20, 2021.

Sec. 3. Waiver. (a) The Director of the Office of Management and Budget (OMB), in consultation with the Counsel to the President, may grant to any current or former appointee a written waiver of any restrictions contained in the pledge signed by such appointee if, and to the extent that, the Director of OMB certifies in writing:

(i) that the literal application of the restriction is inconsistent with the purposes of the restriction; or

(ii) that it is in the public interest to grant the waiver. Any such written waiver should reflect the basis for the waiver and, in the case of a waiver of the restrictions set forth in paragraphs 3(b) and (c) of the pledge, a discussion of the findings with respect to the factors set forth in subsection (b) of this section.

(b) A waiver shall take effect when the certification is signed by the Director of OMB and shall be made public within 10 days thereafter.

(c) The public interest shall include, but not be limited to, exigent circumstances relating to national security, the economy, public health, or the environment. In determining whether it is in the public interest to grant a waiver of the restrictions contained in paragraphs 3(b) and (c) of the pledge, the responsible official may consider the following factors:

- (i) the government's need for the individual's services, including the existence of special circumstances related to national security, the economy, public health, or the environment;
- (ii) the uniqueness of the individual's qualifications to meet the government's needs;
- (iii) the scope and nature of the individual's prior lobbying activities, including whether such activities were de minimis or rendered on behalf of a nonprofit organization; and
- (iv) the extent to which the purposes of the restriction may be satisfied through other limitations on the individual's services, such as those required by paragraph 3(a) of the pledge.

Sec. 4. Administration. (a) The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate to ensure:

- (i) that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee;
- (ii) that compliance with paragraph 3 of the pledge is addressed in a written ethics agreement with each appointee to whom it applies, which agreement shall also be approved by the Counsel to the President prior to the appointee commencing work;
- (iii) that spousal employment issues and other conflicts not expressly addressed by the pledge are addressed in ethics agreements with appointees or, where no such agreements are required, through ethics counseling; and
- (iv) that the agency generally complies with this order.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) of this order shall be the responsibility of the Counsel to the President.

(c) The Director of the Office of Government Ethics shall:

- (i) ensure that the pledge and a copy of this order are made available for use by agencies in fulfilling their duties under section 4(a) of this order;
- (ii) in consultation with the Attorney General or the Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and
- (iii) in consultation with the Attorney General and the Counsel to the President, adopt such rules or procedures as are necessary or appropriate:
 - (A) to carry out the foregoing responsibilities;
 - (B) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;
 - (C) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;
 - (D) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by the employees' official actions do not affect the integrity of the Government's programs and operations;
 - (E) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 6 of the pledge is honored by every employee of the executive branch;
- (iv) in consultation with the Director of OMB, report to the President on whether full compliance is being achieved with existing laws and regulations governing executive branch procurement lobbying disclosure. This report shall include recommendations on steps the executive branch can take to expand, to the fullest extent practicable, disclosure of both executive branch procurement lobbying and of lobbying for Presidential pardons. These recommendations shall include both immediate actions the executive branch can take and, if necessary, recommendations for legislation; and
- (v) provide an annual public report on the administration of the pledge and this order.

(d) The Director of the Office of Government Ethics shall, in consultation with the Attorney General, the Counsel to the President, and the Director of the Office of Personnel Management, report to the President on steps the executive branch can take to expand to the fullest extent practicable the revolving door ban set forth in paragraph 5 of the pledge to all executive branch employees who are involved in the procurement process such that they may not for 2 years after leaving Government service lobby any Government official regarding a Government contract that was under their official responsibility in the last 2 years of their Government service. This report shall include both immediate actions the executive branch can take and, if necessary, recommendations for legislation.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States pursuant to this section by any legally available means, including debarment proceedings within any affected executive agency or judicial civil proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from lobbying any officer or employee of that agency for up to 5 years in addition to the time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which procedures shall include (but not be limited to) providing for fact-finding and investigation of possible violations of this order and for referrals to the Attorney General for consideration pursuant to subsection (c) of this order.

(c) The Attorney General is authorized:

(i) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(ii) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action against the former employee in any United States District Court with jurisdiction to consider the matter.

(d) In any such civil action, the Attorney General is authorized to request any and all relief authorized by law, including but not limited to:

(i) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former employee in breach of the commitments in the pledge he or she signed; and

(ii) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former employee arising out of any breach or attempted breach of the pledge signed by the former employee.

Sec. 6. General Provisions. (a) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,
January 20, 2021.

Clarke, Victoria

From: Fugh, Justina
Sent: Tuesday, January 26, 2021 12:22 AM
To: Adhar, Radha; Enobakhare, Rosemary; Fox, Radhika; Hamilton, Lindsay; Harris, Sincere; Hoffer, Melissa; Katims, Casey; Utech, Dan
Subject: Friendly reminder to please sign the attached Biden Ethics pledge
Attachments: Biden Ethics Pledge for digital signature.pdf

Thanks in advance! You can send it back to me or to ethics@epa.gov.

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

ETHICS PLEDGE

I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. *Lobbyist Gift Ban.* I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
2. *Revolving Door Ban — All Appointees Entering Government.* I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
3. *Revolving Door Ban — Lobbyists and Registered Agents Entering Government.* If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq.*, or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq.*, within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:
 - (a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;
 - (b) participate in the specific issue area in which that particular matter falls; or
 - (c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.
4. *Revolving Door Ban — Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.
5. *Revolving Door Ban — Senior and Very Senior Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.
6. *Revolving Door Ban — Appointees Leaving Government to Lobby.* In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.
7. *Golden Parachute Ban.* I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.
8. *Employment Qualification Commitment.* I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. *Assent to Enforcement.* I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.

Signature _____

_____, 20____
Date

Name (Type or Print): _____

Clarke, Victoria

From: Fox, Radhika
Sent: Wednesday, January 27, 2021 9:47 AM
To: Fugh, Justina
Subject: Radhika Fox Ethics Pledge Signed
Attachments: Doc - Jan 27 2021 - 6-45 AM.pdf

Thanks Justina!

ETHICS PLEDGE

I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

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3. *Revolving Door Ban — Lobbyists and Registered Agents Entering Government.* If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq.*, or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq.*, within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:
 - (a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;
 - (b) participate in the specific issue area in which that particular matter falls; or
 - (c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.
4. *Revolving Door Ban — Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.
5. *Revolving Door Ban — Senior and Very Senior Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.
6. *Revolving Door Ban — Appointees Leaving Government to Lobby.* In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.
7. *Golden Parachute Ban.* I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.
8. *Employment Qualification Commitment.* I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. *Assent to Enforcement.* I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.

Signature

Date

1/26/2021

Name (Type or Print):

Radhika Fox



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Radhika K. Fox
Principal Deputy Assistant Administrator

RADHIKA
FOX

Digitally signed by
RADHIKA FOX
Date: 2021.06.16
06:07:39 -07'00'

TO: Michael S. Regan
Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and President Biden's Ethics Pledge that I signed.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employers, **U.S. Water Alliance, Jobs to Move America, PolicyLink, and the Aspen Institute**, is a party or represents a party. I understand that my recusal will last for two years from the date that I joined federal service. This recusal will end after January 20, 2023.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means that the meeting should include a multiplicity of parties. If, for example, there is "a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client."¹ Should a question arise as to whether a specific forum qualifies as "open to all interested parties," then I will consult with OGC/Ethics.

¹ See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Particular Matters Involving Specific Parties

Because of the current level of financial ownership, I am disqualified from participating personally and substantially in any particular matter that affects any of following entities as a specific party:

RECUSAL LIST – SPECIFIC PARTY MATTERS			
3M	Caterpillar, Inc.	JP Morgan & Chase	Raytheon Technologies Corp.
Abbot Laboratories	Centene Corp.	Mastercard, Inc.	SalesForce
Abbvie, Inc.	Chevron Corp.	Medtronic PLC	Starbucks Corp.
Alphabet, Inc.	Citigroup, Inc.	Metlife, Inc.	Traveler's
Amazon	Coca-Cola Co.	Microsoft	UPS
Amgen, Inc.	Comcast Corp.	Morgan Stanley	U.S. Bancorp
Anthem, Inc.	Costco	Nike, Inc.	United Health Group
Apple, Inc.	Exxon Mobil Corp.	Novartis AG	Valero Energy
Bank of America	Facebook, Inc.	Nvidia Corp	Verizon Communications
Bank of Montreal	FedEx Corp.	OTIS Worldwide Corp.	Visa, Inc.
Berkshire Hathaway	Home Depot, Inc.	PepsiCo, Inc.	Walt Disney
BHP Group	Honeywell International, Inc.	Pfizer, Inc.	
Boeing Co.	Intel, Corp.	PNC Financial Services	
Carrier Global Corporation	Johnson & Johnson	Proctor & Gamble	

Particular Matters of General Applicability

I am also disqualified from participating personally and substantially in any particular matter of general applicability that is focused on the interests of any individual discrete and identifiable class of “persons” (identified as “sectors” below). This prohibition extends to each class (or sector) individually. If a matter affects all sectors or if a particular matter affects a combination of sectors, including the ones listed below, then I understand that I do not have a financial conflict of interest.

RECUSAL LIST –SECTORS		
Aerospace & Defense	Apparel, Accessories, Footwear, & Luxury Goods	Banks
Beverages	Building Products	Consumer Finance
Diversified Financial Services	Electrical Equipment	Food & Staples Retailing
Healthcare Equipment & Services	Home Improvement Retail	Hotels, Resorts, & Cruise Lines
Household & Personal Products	Insurance	Internet & Direct Marketing Retail
Machinery	Media & Entertainment	Oil & Gas – Downstream, Midstream, Upstream
Pharmaceuticals, Biotechnology, & Life Sciences	Renewable Energy Sources (Solar, Wind, Geothermal, Hydro)	Software & Services
Specialty Chemicals	Technology Hardware & Equipment	Telecommunication Services
Transportation (Air Freight & Logistics; Marine, Road & Rail)	Utilities	

Bonds

I am recused from participating in any particular matter that will have a direct and predictable financial effect upon the ability and willingness of the following bond issuers to honor their obligations or that will affect their bond ratings.

RECUSAL LIST – BONDS	
New Jersey Turnpike Authority	San Juan Unified School District, California
New Jersey Economic Development Authority	Public Works Board, California
State of New Jersey	William S. Hart School District, California
Union County, New Jersey	Chaffey Community College District, California
Carteret, New Jersey	Chabot Las Positas Community College District, California
Orange Township, New Jersey	City and County San Francisco, California
State of California	Long Beach, California

Certificate of Divestiture

I intend to seek a certificate of divestiture and will update this recusal statement when my financial situation changes.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to the federal ethics rules, I understand that I have a covered relationship with the **Water Solutions Network**, as within the last year I served on their Advisory Council, though I was unpaid and did not have any fiduciary obligations. 5 C.F.R. § 2635.502(b)(v). Therefore, I am recused from working on any specific party matters where the Water Solutions Network is a party or represents a party, for one year from the date of my resignation. This recusal period will expire after **January 20, 2022**.

I also have a covered with my spouse and my spouse's employer, Direct Commerce, Inc. See 5 C.F.R. § 2635.502(b)(1)(ii) and (iii). I will recuse from specific party matters where my spouse or his employer is a party or represents a party, unless I am otherwise authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d).

DIRECTIVE AND CONCLUSION

To avoid participating in all of the matters outlined above from which I am recused, please direct them to the attention of **Benita Best-Wong, Deputy Assistant Administrator**, without my knowledge or involvement. Should these recusals have a significant impact on my ability to perform my duties, I will seek additional guidance from OGC/Ethics and will consult with them to revise my recusal statement if my circumstances change, including changes in my financial interests, my personal or business relationships, or my EPA duties, and provide a copy to you and the Ethics Office.

cc: Benita Best-Wong, Deputy Assistant Administrator
OW Office Directors
Justina Fugh, Director, Ethics Office
Louise Kitamura, OW/IO Assistant Deputy Ethics Official




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
AIR AND RADIATION

June 17, 2021

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Alejandra Nunez  Alejandra Nunez
Deputy Assistant Administrator for Mobile Sources

Digitally signed by Alejandra Nunez
Date: 2021.06.17 23:35:19 -04'00'

TO: Joseph Goffman
Acting Assistant Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed, as well as my own attorney bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Because of the current level of financial ownership, I am disqualified from participating personally and substantially in any particular matter that will have a direct and predictable effect upon any of the following entities as a specific party:

RECUSAL LIST – SPECIFIC PARTY MATTERS		
Amazon	Netflix	SunRun Inc.
Kering	Peloton Interactive, Inc.	Uber Technologies, Inc.
Microsoft	QUALCOMM	Zoom Video Communications, Inc.

I am also disqualified from participating personally and substantially in any particular matter of general applicability that is focused on the interests of any individual discrete and identifiable class of “persons” (identified as “sectors” below). This prohibition extends to each class (or sector) individually. If a matter affects all sectors or if a particular matter affects a combination of sectors, including the ones listed below, then I understand that I do not have a financial conflict of interest.

RECUSAL LIST – SECTORS	
Communication Services (Entertainment, and Interactive Media and Services)	Consumer Services
Electrical Equipment (limited to Solar Energy Systems)	Food and Staples Retailing
Internet and Direct Marketing Retail	Leisure Products
Semiconductors	Software and Services
Technology Hardware and Equipment	Textiles, Apparel and Luxury Goods

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of Executive Order 13989, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employers, **Sierra Club**, **Coalition for Green Capital**, or **the Clean Energy Federal Credit Union**, is a party or represents a party. Under the terms of the Ethics Pledge, this recusal lasts for two years from the date that I joined federal service, or until January 31, 2023.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”¹ Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect

¹ See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Thus, I will not participate in the following matters:

CASE NAME:	CITATION:
Union of Concerned Scientists, <i>et al.</i> v. National Highway Traffic Safety Administration	No. 19-1230 (D.C. Cir.) (lead case)
Sierra Club, <i>et al.</i> v. Environmental Protection Agency, <i>et al.</i>	No. 19-1243 (D.C. Cir.) (consolidated)
Competitive Enterprise Institute, <i>et al.</i> v. National Highway Traffic Safety Administration, <i>et al.</i>	No. 20-1145 (D.C. Cir.) (lead case)
Natural Resources Defense Council, <i>et al.</i> v. Andrew R. Wheeler, <i>et al.</i>	No. 20-1168 (D.C. Cir.) (consolidated)
Truck Trailer Manufacturers Association v. Environmental Protection Agency, <i>et al.</i>	No. 16-1430 (D.C. Cir.)
American Lung Association, <i>et al.</i> v. Environmental Protection Agency, <i>et al.</i>	No. 19-1140 (D.C. Cir.) (lead case)
Appalachian Mountain Club, <i>et al.</i> v. Environmental Protection Agency	No. 19-1166 (D.C. Cir.) (consolidated)
Biogenic CO2 Coalition v. Environmental Protection Agency, <i>et al.</i>	No. 19-1185 (D.C. Cir.) (consolidated)
State of North Dakota v. Environmental Protection Agency	No. 15-1381 (D.C. Cir.)

DIRECTIVE AND CONCLUSION

To avoid participating in matters from which I am recused, please direct them to the attention of **Ann Ferrio, Chief of Staff**, without my knowledge or involvement. Should these recusals have a significant impact on my ability to perform my duties, I will seek additional guidance from OGC/Ethics and will consult with them to revise my recusal statement if my circumstances change, including changes in my financial interests, my personal or business relationships, or my EPA duties, and provide a copy to you and the Ethics Office.

cc: Elizabeth Shaw, Deputy Assistant Administrator
Tomás Carbonell, Deputy Assistant Administrator for Stationary Sources
Ann (Campbell) Ferrio, Chief of Staff
Eunjung Kim, Special Assistant
Justina Fugh, Director, Ethics Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
AIR AND RADIATION

August 18, 2021

MEMORANDUM

SUBJECT: Updated Recusal Statement

FROM: Alejandra Nunez **Alejandra Nunez** Digitally signed by Alejandra Nunez
Deputy Assistant Administrator for Mobile Sources Date: 2021.08.18 23:02:56 -04'00'

TO: Joseph Goffman
Acting Assistant Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed, as well as my own attorney bar obligations. This recusal statement supersedes my June 17, 2021 recusal statement.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Because of the current level of financial ownership, I am disqualified from participating personally and substantially in any particular matter that will have a direct and predictable effect upon any of the following entities as a specific party:

RECUSAL LIST – SPECIFIC PARTY MATTERS	
Amazon	Peloton Interactive, Inc.
Expeditors International of Washington, Inc.	QUALCOMM
Kering	SunRun Inc.
Microsoft	Uber Technologies, Inc.
Netflix	Zoom Video Communications, Inc.

I am also disqualified from participating personally and substantially in any particular matter of general applicability that is focused on the interests of any individual discrete and identifiable class of “persons” (identified as “sectors” below). This prohibition extends to each class (or sector) individually. If a matter affects all sectors or if a particular matter affects a combination of sectors, including the ones listed below, then I understand that I do not have a financial conflict of interest.

RECUSAL LIST – SECTORS	
Communication Services (Entertainment, and Interactive Media and Services)	Consumer Services
Logistics Services	Food and Staples Retailing
Internet and Direct Marketing Retail	Leisure Products
Semiconductors	Software and Services
Technology Hardware and Equipment	Textiles, Apparel and Luxury Goods
Electrical Equipment (limited to Solar Energy Systems)	

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of Executive Order 13989, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employers, **Sierra Club, Coalition for Green Capital, or the Clean Energy Federal Credit Union**, is a party or represents a party. Under the terms of the Ethics Pledge, this recusal lasts for two years from the date that I joined federal service, or until January 31, 2023.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”¹ Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

¹ See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Thus, I will not participate in the following matters:

CASE NAME:	CITATION:
Union of Concerned Scientists, <i>et al.</i> v. National Highway Traffic Safety Administration	No. 19-1230 (D.C. Cir.) (lead case)
Sierra Club, <i>et al.</i> v. Environmental Protection Agency, <i>et al.</i>	No. 19-1243 (D.C. Cir.) (consolidated)
Competitive Enterprise Institute, <i>et al.</i> v. National Highway Traffic Safety Administration, <i>et al.</i>	No. 20-1145 (D.C. Cir.) (lead case)
Natural Resources Defense Council, <i>et al.</i> v. Andrew R. Wheeler, <i>et al.</i>	No. 20-1168 (D.C. Cir.) (consolidated)
Truck Trailer Manufacturers Association v. Environmental Protection Agency, <i>et al.</i>	No. 16-1430 (D.C. Cir.)
American Lung Association, <i>et al.</i> v. Environmental Protection Agency, <i>et al.</i>	No. 19-1140 (D.C. Cir.) (lead case)
Appalachian Mountain Club, <i>et al.</i> v. Environmental Protection Agency	No. 19-1166 (D.C. Cir.) (consolidated)
Biogenic CO2 Coalition v. Environmental Protection Agency, <i>et al.</i>	No. 19-1185 (D.C. Cir.) (consolidated)
State of North Dakota v. Environmental Protection Agency	No. 15-1381 (D.C. Cir.)

DIRECTIVE AND CONCLUSION

To avoid participating in matters from which I am recused, please direct them to the attention of **Ann Ferrio, Chief of Staff**, without my knowledge or involvement. Should these recusals have a significant impact on my ability to perform my duties, I will seek additional guidance from OGC/Ethics and will consult with them to revise my recusal statement if my circumstances change, including changes in my financial interests, my personal or business relationships, or my EPA duties, and provide a copy to you and the Ethics Office.

cc: Elizabeth Shaw, Deputy Assistant Administrator
Tomás Carbonell, Deputy Assistant Administrator for Stationary Sources
Ann (Campbell) Ferrio, Chief of Staff
Eunjung Kim, Special Assistant
Justina Fugh, Director, Ethics Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

April 8, 2021

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Joseph Goffman
Acting Assistant Administrator

TO: Michael S. Regan
Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and President Biden's Ethics Pledge that I signed.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Harvard University**, is a party or represents a party. I understand that my recusal will last for two years from the date that I joined federal service. This recusal will end after January 20, 2023.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means that the meeting should include a multiplicity of parties. If, for example, there is "a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client."¹ Such a meeting must also include a diversity of interests. Should a question arise as to whether a specific forum qualifies as "open to all interested parties," then I will consult with OGC/Ethics.

¹ See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Particular Matters Involving Specific Parties

Because of the current level of financial ownership, I am disqualified from participating personally and substantially in any particular matter that affects any of following entities as a specific party:

RECUSAL LIST – SPECIFIC PARTY MATTERS			
Abbot Laboratories	Abbvie	Accenture PLC	Agilent Technologies
Alphabet Inc	Altria Group	Amazon	American Express
Ameriprise Financial	Apple, Inc.	Arthur J Gallagher	AT&T
Becton Dickinson	Broadcom Inc	Canadian National RY	Centene Corp
Champion X Corp	Charter Communications	Cisco Systems	Colgate Palmolive
Comcast	Costco	Danaher Corp	Deere & Co.
Discover Financial	Disney	Dollar Tree Inc	Dover Corp
Eaton Corp	Ecolab Inc.	Facebook	Fidelity
First Rep Bank	Fortive Corp.	Glaxo Smith Kline	Home Depot
IBM	Intel Corp	Johnson & Johnson	JP Morgan Chase
Lab Co of America Holding	Markel Corp	Martin Marietta Materials Inc	Meditronic PLC
Merck & Co.	Mettler Toledo Intl	Microsoft	Mondelez International
Monster Beverage	Nestle S.A.	Nike	Novartis AG
NVIDIA Corp	Omnicom Group	PayPal	PepsiCo
Pfizer Inc.	Philip Morris	Proctor & Gamble Co.	PNC Financial
Qualcomm INC	Roche Holding AG	Roper Technologies	SalesForce
Sherwin Williams	Skyworks Solutions	Spotify	Starbucks Corp
State Street	Texas Instruments	TJX	Truist Financial Corp
United Health Group	US Bancorp	Verizon Comm	Visa
Wells Fargo	Zoetis, Inc.		

Particular Matters of General Applicability

I am also disqualified from participating personally and substantially in any particular matter of general applicability that is focused on the interests of any individual discrete and identifiable class of “persons” (identified as “sectors” below). This prohibition extends to each class (or sector) individually. If a matter affects all sectors or if a particular matter affects a combination of sectors, including the ones listed below, then I understand that I do not have a financial conflict of interest.

RECUSAL LIST – INDIVIDUAL SECTORS		
Advertising	Apparel	Banking
Communications Equipment	Credit Services	Discount Stores
Entertainment	Farm & Heavy Construction Machinery	Footwear
Healthcare Plans	Home Improvement Retail	Household & Personal Products
Information Technology Services	Insurance	Internet Content
Internet Retail	Non-Alcoholic Beverages	Packaged Foods
Paint	Pharmaceuticals & Drug Manufacturing	Restaurants
Scientific & Technical Instruments	Semiconductors	Snack Food
Snack Food	Software	Specialty Chemicals
Specialty Industrial Machinery	Specialty Industrial Machinery	Telecom Services
Tobacco		

Corporate Bonds

I am recused from participating in any particular matter that will have a direct and predictable financial effect upon the ability and willingness of the following bond issuers to honor their obligations or that will affect their bond ratings:

RECUSAL LIST – BONDS			
Amgen, Inc.	Anthem, Inc.	Apple, Inc.	Comcast Corporation
General Dynamics Corporation	Morgan Stanley	Starbucks Corporation	State Street Corporation

Certificate of Divestiture

I intend to seek a certificate of divestiture and will update this recusal statement when my financial situation changes.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Ann Ferrio, Chief of Staff, to assist in screening EPA matters directed to my attention that involve my former employer or my former clients. All inquiries and comments involving the entities or issue areas on my recusal list should be directed to the Chief of Staff without my knowledge or involvement.

If the Chief of Staff determines that a particular matter will directly involve any of the entities or issue areas on my recusal list, then she will refer it for action or assignment to another, without my knowledge or involvement. In the event that she is unsure whether an issue is a particular matter from which I am recused, then she will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates and a copy to Justina Fugh, Director, Ethics Office.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Elizabeth Shaw, Deputy Assistant Administrator
Tomás Carbonell, Deputy Assistant Administrator for Stationary Sources
Alejandra Nunez, Deputy Assistant Administrator for Mobile Sources
Ann (Campbell) Ferrio, Chief of Staff
Eunjung Kim, Special Assistant
Justina Fugh, Director, Ethics Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Updated Recusal Statement

FROM: Joseph Goffman
Acting Assistant Administrator

JOSEPH
GOFFMAN

Digitally signed by
JOSEPH GOFFMAN
Date: 2021.06.30
12:48:36 -04'00'

TO: Michael S. Regan
Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and President Biden's Ethics Pledge that I signed. This recusal statement replaces and supersedes the recusal statement I signed on April 8, 2021.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Harvard University**, is a party or represents a party. I understand that my recusal will last for two years from the date that I joined federal service. This recusal will end after January 20, 2023.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means that the meeting should include a multiplicity of parties. If, for example, there is "a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client."¹ Should a question arise as to whether a specific forum qualifies as "open to all interested parties," then I will consult with OGC/Ethics.

¹ See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Particular Matters Involving Specific Parties

Because of the current level of financial ownership, I am disqualified from participating personally and substantially in any particular matter that affects any of following entities as a specific party:

RECUSAL LIST – SPECIFIC PARTY MATTERS			
Abbot Laboratories	Abbvie	Accenture PLC	Agilent Technologies
Alphabet Inc	Altria Group	Amazon	American Express
Ameriprise Financial	Apple, Inc.	Arthur J Gallagher	AT&T
Becton Dickinson	Centene Corp	Charter Communications	Cisco Systems
Colgate Palmolive	Comcast	Costco	Danaher Corp
Deere & Co.	Discover Financial	Disney	Dollar Tree Inc
Facebook	Fidelity	First Rep Bank	Glaxo Smith Kline
IBM	Johnson & Johnson	JP Morgan Chase	Lab Co of America Holding
Markel Corp	Martin Marietta Materials Inc	Meditronic PLC	Merck & Co.
Mettler Toledo Intl	Microsoft	Mondelez International	Monster Beverage
Nestle S.A.	Nike	Novartis AG	Omnicom Group
PayPal	PepsiCo	Pfizer Inc.	Philip Morris
Proctor & Gamble Co.	PNC Financial	Roche Holding AG	SalesForce
Sherwin Williams	Spotify	Starbucks Corp	State Street
TJX	Truist Financial Corp	United Health Group	US Bancorp
Verizon Comm	Visa	Wells Fargo	Zoetis, Inc.

Particular Matters of General Applicability

I am also disqualified from participating personally and substantially in any particular matter of general applicability that is focused on the interests of any individual discrete and identifiable class of “persons” (identified as “sectors” below). This prohibition extends to each class (or sector) individually. If a matter affects all sectors or if a particular matter affects a combination of sectors, including the ones listed below, then I understand that I do not have a financial conflict of interest.

RECUSAL LIST – INDIVIDUAL SECTORS		
Agricultural & Farm Machinery	Apparel, Accessories, & Footwear	Banks
Commodity Chemicals (Paint)	Construction Machinery & Heavy Trucks	Construction Materials
Cruise lines	Diversified Financials	Food & Staples Retailing
Healthcare Equipment & Services	Household & Personal Products	Household Appliances (lawn & garden tools)
Insurance	Internet & Direct Marketing Retail	Logistics
Media & Entertainment (including interactive media and services, and advertising)	Non-Alcoholic Beverages	Packaged Foods & Meats (snack food)
Pharmaceuticals, Biotechnology, & Life Sciences	Professional Services	Software & Services
Technology Hardware & Equipment	Telecommunication Services	Tobacco

Corporate Bonds

I am recused from participating in any particular matter that will have a direct and predictable financial effect upon the ability and willingness of the following bond issuers to honor their obligations or that will affect their bond ratings:

RECUSAL LIST – BONDS			
Amgen, Inc.	Anthem, Inc.	Apple, Inc.	Comcast Corporation
General Dynamics Corporation	Morgan Stanley	Starbucks Corporation	State Street Corporation

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Ann Ferrio, Chief of Staff, to assist in screening EPA matters directed to my attention that involve my former employer or my former clients. All inquiries and comments involving the entities or issue areas on my recusal list should be directed to the Chief of Staff without my knowledge or involvement.

If the Chief of Staff determines that a particular matter will directly involve any of the entities or issue areas on my recusal list, then she will refer it for action or assignment to another, without my knowledge or involvement. In the event that she is unsure whether an issue is a particular matter from which I am recused, then she will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates and a copy to Justina Fugh, Director, Ethics Office.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Elizabeth Shaw, Deputy Assistant Administrator
Tomás Carbonell, Deputy Assistant Administrator for Stationary Sources
Alejandra Nunez, Deputy Assistant Administrator for Mobile Sources
Ann (Campbell) Ferrio, Chief of Staff
Eunjung Kim, Special Assistant
Justina Fugh, Director, Ethics Office